

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

**HOUSE BILL 714  
RATIFIED BILL**

**AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS  
TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS  
APPROPRIATIONS ACT OF 2007.**

The General Assembly of North Carolina enacts:

**SECTION 1.** The fourth paragraph of subdivision (28) of Section 10.36(d) of S.L. 2007-323 reads as rewritten:

"Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder, or (ii) HIV/AIDS, except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

- a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and
- b. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill."

**SECTION 2.** Section 10.36(d)(29)b.1. of S.L. 2007-323 reads as rewritten:

- "b. For children eligible for EPSDT services provided by:
  1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, ~~certified~~ licensed clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North

Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and".

**SECTION 3.** Section 10.36(d)(29)c. of S.L. 2007-323 reads as rewritten:

"c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and ~~licensed-certified~~ clinical supervisors, Medicaid-eligible adults may be self-referred."

**SECTION 4.** Section 10.55(n) of S.L. 2007-323 reads as rewritten:

**"SECTION 10.55.(n)** The sum of ~~one million five hundred thousand dollars (\$1,500,000)~~ 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 2007-2008 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate."

**SECTION 5.** Notwithstanding any other provision of S.L. 2007-323 to the contrary:

- (1) Funding reductions in that act in the Department of Health and Human Services, Division of Medical Assistance, due to savings from prior authorization of all personal care services apply only to in-home personal care services.
- (2) Funds appropriated in that act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in S.L. 2007-323 for Mental Health Services for Returning Vets shall be for one mental health program manager position in the 2007-2008 and 2008-2009 fiscal years.
- (3) Funds appropriated in that act to the Department of Health and Human Services, Division of Health Service Regulation, for Health Care Personnel Registry and Rating System for Adult Care Homes shall be for 14 positions and related costs.

**SECTION 5.1.** Section 7.32(d)(12) of S.L. 2007-323 reads as rewritten:

"(12) Grants shall be made no later than November 1, ~~2007-2007~~, or as expeditiously as possible."

**SECTION 5.2.** S.L. 2007-323 is amended by adding a new section to read:

**"COMMUNITIES IN SCHOOLS FUNDS**

**SECTION 7.41.** Notwithstanding Page F-9, Item 36, of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, or any other provision of S.L. 2007-323, funds appropriated to the Department of Public Instruction as a pass-through for Communities in Schools of North Carolina, Inc., shall be used by that nonprofit corporation to assist with the establishment and development of local student support programs designed to prevent academic failure and dropouts. Communities in Schools of North Carolina, Inc., may provide these funds to local programs as "seed money" for both new and established programs and may use funds from its cash reserves for additional grants to local programs."

**SECTION 5.3.** S.L. 2007-323 is amended by adding a new section to read:  
**"JOINT LEGISLATIVE STUDY COMMITTEE ON PUBLIC SCHOOL FUNDING FORMULAS**

**SECTION 7.42.(a)** There is created the Joint Legislative Study Committee on Public School Funding Formulas. The Committee shall consist of 10 members of the House of Representatives appointed by the Speaker of the House of Representatives and 10 members of the Senate appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Committee.

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

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

**SECTION 7.42.(b)** The Committee shall perform an extensive study of all public school funding formulas and distributions, including, but not limited to:

- (1) School Capital Fund.
- (2) Lottery School Construction Formula.
- (3) Children with Disabilities.
- (4) Limited English Proficiency.
- (5) At-Risk Student Services/Alternative Schools.
- (6) Improving Student Accountability.
- (7) Disadvantaged Students Supplemental.
- (8) Low-Wealth Counties Supplemental Funding.
- (9) Small County Supplemental Funding.
- (10) Transportation of Pupils.
- (11) Academically or Intellectually Gifted.
- (12) Number of school systems funded per county.

**SECTION 7.42.(c)** The Committee shall also study the State Board of Education's model for projecting average daily membership and focus particularly on how well the model projects average daily membership in rapidly growing local school administrative units with a highly mobile population.

**SECTION 7.42.(d)** The Committee shall submit a report of its findings and recommendations, including any legislative recommendations, to the 2008 Regular Session of the 2007 General Assembly. The Committee shall terminate upon filing its report.

**SECTION 7.42.(e)** From funds available to the General Assembly, the Committee may use up to one million dollars (\$1,000,000) to conduct this study, subject to the approval of the Legislative Services Commission chairs.

**SECTION 7.42.(f)** In preparation of the Committee's work, the chairs of the Legislative Services Commission may hire consultants prior to the first meeting of the Committee."

**SECTION 6.1.** Notwithstanding page H-4, line 18 of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated July 27, 2007, or any other provision of S.L. 2007-323, funding is provided for grants to retrofit existing school bus engines to reduce diesel emissions only if House Bill 1912 of the 2007 General Assembly becomes law.

**SECTION 7.** If Senate Bill 613 is enacted and recodifies G.S. 143B-437.10 as G.S. 143B-437.010, then subdivision (4) of Section 13.14(d) of S.L. 2007-323 reads as rewritten:

"(3) It is located in a small town with a population under 10,000, an agrarian growth zone as defined in ~~G.S. 143B-437.10, G.S. 143B-437.010,~~ or an urban progress zone as defined in G.S. 143B-437.09."

**SECTION 8.** Section 14.25(m) of S.L. 2007-323 reads as rewritten:

**"SECTION 14.25.(m)** ~~The 10 Ten of the 11~~ assistant district attorney positions established for District 22A by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22. ~~The 10 Ten of the 11~~ assistant district attorney positions established for District 22B by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving ~~Alexander and Iredell~~ Davidson and Davie Counties in District 22."

**SECTION 9.** S.L. 2007-323 is amended by adding a new section to read:

**"EMERGENCY JUDGE PAY**

**SECTION 14.26.** G.S. 7A-52(b) reads as rewritten:

'(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's actual expenses, plus ~~three hundred dollars (\$300.00)~~ four hundred dollars (\$400.00) for each day of active service rendered upon recall. No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled."

**SECTION 9.1.(a)** G.S. 7A-305(a3), as enacted by Section 2 of S.L. 2007-293, reads as rewritten:

"(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the court costs assessed under subsection (a) of this section ~~plus an additional filing fee of one hundred dollars (\$100.00). The additional filing fee must be remitted to the State Treasurer and used for support of the General Court of Justice.~~section."

**SECTION 9.1.(b)** G.S. 20-20.2, as enacted by Section 30.11(b) of S.L. 2007-323, reads as rewritten:

**"§ 20-20.2. Processing fee for limited driving privilege.**

Upon the issuance of a limited driving privilege by a court under this Chapter, the applicant or petitioner must pay, in addition to any other costs associated with obtaining the privilege, ~~the a processing fee imposed under G.S. 7A-305(a3), of one hundred dollars (\$100.00).~~ The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The fee must be remitted to the State Treasurer and used for support of the General Court of Justice. The failure to pay this fee shall render the privilege invalid."

**SECTION 9.1.(c)** Subsections (c) and (d) of Section 30.11 of S.L. 2007-323 are repealed.

**SECTION 9.1.(d)** Subsection (a) of this section becomes effective December 1, 2007. Subsection (b) of this section becomes effective August 1, 2007, and applies to costs assessed on or after that date. The remainder of this section is effective when it becomes law.

**SECTION 9.2.** S.L. 2007-323 is amended by adding a new section to read:

**"STUDY AVAILABILITY AND UTILIZATION OF MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES**

**SECTION 19.4.** The Department of Administration may conduct a study on the availability and utilization of minority-owned and women-owned business enterprises and examine relevant evidence of the effects of race-based and gender-based discrimination upon the utilization of such business enterprises in contracts for planning, design, preconstruction, construction, maintenance, renovation, or repairs of State building projects, including building projects performed by a private entity on a

facility to be leased or purchased by the State. The study may include local government units or other public or private entities that receive State funding for a building or utility project, or other State grant funds for such projects performed by a private entity on a facility to be leased or purchased by the local government unit. The study may further examine relevant evidence of the effects of race-based and gender-based discrimination upon the utilization of such business enterprises in contracts for the procurement of materials, supplies, equipment, apparatus, or other goods and services by all State entities. The Director of the Budget is authorized within funds available in any State agency to use up to one million five hundred thousand dollars (\$1,500,000) for the study authorized under this section."

**SECTION 10.** S.L. 2007-323 is amended by adding a new section to read:

**"AID TO PUBLIC LIBRARIES**

**SECTION 21.4.** Notwithstanding any other provision of this act to the contrary, the Department of Cultural Resources shall distribute increases in the appropriation to public libraries based on the existing formula for Aid to Public Libraries."

**SECTION 10.1.** S.L. 2007-323 is amended by adding a new section to read:

**"APPROPRIATION OF SPECIAL PLATES REVENUES**

**SECTION 27.20.(a)** G.S. 20-81.12 is amended by adding a new subsection to read:

'(c1) In accordance with G.S. 143C-1-2, the transfers mandated in this section are appropriations made by law.'

**SECTION 27.20.(b)** G.S. 20-79.7(c)(3) reads as rewritten:

'(3) The Division shall transfer the remaining revenue in the Special Registration Plate Account ~~quarterly~~ quarterly, and funds are hereby appropriated, as follows:

''''

**SECTION 11.** Section 28.22A of S.L. 2007-323 is amended by adding a new subsection to read:

**"SECTION 28.22A.(m1)** G.S. 135-39.6A(a) reads as rewritten:

'(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Teachers' and State Employees' Comprehensive Major Medical Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish regulations for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits.'"

**SECTION 12.** Section 28.22A(o) of S.L. 2007-323 reads as rewritten:

**"SECTION 28.22A.(o)** Effective July 1, 2008, the Revisor of Statutes shall delete all statutory references to "Teachers' and State Employees' Comprehensive Major Medical Plan" and "North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan" and substitute therefor "State Health Plan for Teachers and State Employees."

**SECTION 13.** Notwithstanding any other provision of S.L. 2007-323:

- (1) The capital planning funds appropriated in that act for the design of an addition to Scotland Correctional Institution shall be used for a minimum security addition rather than a medium security addition; and
- (2) The capital planning funds appropriated in that act for the design of an addition to Lanesboro Correctional Institution shall be used for a medium security addition rather than a minimum security addition.

**SECTION 14.** Notwithstanding any other provision of S.L. 2007-323, the capital funds appropriated in this act for berth structure improvements at the Port of Morehead City are not limited to the construction of a new transit shed at the Port, nor is the total project cost limited to the sum of three million two hundred seventy thousand dollars (\$3,270,000).

**SECTION 14.1.** S.L. 2007-323 is amended by adding a new section to read:

**"NORTH CAROLINA AQUARIUMS FUND EXPENDITURES**

**SECTION 29.15.** Notwithstanding G.S. 143C-8-7, and subject to approval by the Director of the Budget, during the 2007-2009 fiscal biennium, the Aquariums Division of the Department of Environment and Natural Resources may expend funds from the North Carolina Aquariums Fund for capital improvements projects."

**SECTION 14.2.** S.L. 2007-323 is amended by adding a new section to read:  
**"TRANSFER OF REVENUE COLLECTIONS AND EXAMINATIONS DIVISION POSITIONS**

**SECTION 24.6.** Notwithstanding item 47 in the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, the Department of Revenue shall move 39 positions in the Collections and Examinations Division from General Fund to receipt supported, as opposed to the 45 positions listed in the Committee Report."

**SECTION 14.3.** Section 24.3(c) of S.L. 2007-323 reads as rewritten:

**"SECTION 24.3.(c)** This section is effective for taxable years beginning on or after ~~January 1, 2007.~~ January 1, 2008."

**SECTION 14.4.(a)** G.S. 105-522(a)(2), as enacted by Section 31.16.4(c) of S.L. 2007-323, reads as rewritten:

"(2) Hold harmless amount. – The sum of the ~~following:~~following distributed to a municipality for the month:

- a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this ~~Chapter to the municipality for a month,~~ Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
- b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
- c. ~~The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision.~~ by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. ~~If the difference is negative, the result increases the hold harmless amount."~~

**SECTION 14.4.(b)** G.S. 105-523(a)(2), as enacted by Section 31.16.4(d) of S.L. 2007-323, reads as rewritten:

"(2) Repealed sales tax amount. – The sum of the ~~following:~~following distributed to a county for the month:

- a. Fifty percent (50%) of the amount of sales and use tax revenue distributed ~~to a county~~ under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
- b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
- c. ~~The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under~~

~~sub-subdivision b. of this subdivision. by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount distributed under Article 40 of this Chapter. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. If the difference is negative, the result increases the hold harmless amount."~~

**SECTION 14.4.(c)** This section becomes effective October 1, 2009, and applies to distributions for months beginning on or after that date.

**SECTION 14.5.(a)** G.S. 105-538, as enacted by Section 31.17(b) of S.L. 2007-323, reads as rewritten:

**"§ 105-538. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding the provisions of G.S. 105-467(c), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."

**SECTION 14.5.(b)** This section is effective when it becomes law.

**SECTION 14.6.(a)** G.S. 105-164.14(n), as enacted by Section 31.20(b) of S.L. 2007-323, reads as rewritten:

"(n) Analytical Services Supplies. – A taxpayer engaged in analytical services in this State is allowed a refund of ~~fifty percent (50%) of the eligible amount of sales and use tax paid by it in this State on State.~~ The amount of the refund is the greater of the following:

- (1) Fifty percent (50%) of the eligible amount sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.
- (2) Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.

A request for a refund must be in writing and must include any information and documentation that the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

**SECTION 14.6.(b)** This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

**SECTION 14.7.(a)** G.S. 105-129.95, as enacted by Section 31.23(a) of S.L. 2007-323, reads as rewritten:

**"§ 105-129.95. Definitions.**

The following definitions apply in this Article:

- (1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, ~~and equipping the facility.~~ facility, and constructing and equipping rail tracks to the railroad intermodal facility that are necessary to access and support facility operations. In the case of property owned or leased by the taxpayer,

cost is determined pursuant to regulations adopted under section 1012 of the Code.

- (2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars (\$30,000,000).
- (3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.
- (4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation."

**SECTION 14.7.(b)** This section becomes effective for taxable years beginning on or after January 1, 2007.

**SECTION 14.8.(a)** Section 24.4 of S.L. 2007-323 is repealed.

**SECTION 14.8.(b)** Notwithstanding Page J2, Item 8, and Page J16, Item 49 of the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated July 27, 2007, funds shall not be transferred from the Department of Revenue to the Department of Administration for the support of the positions of an Administrative Hearings Officer and an associated Administrative Assistant.

**SECTION 14.8.(c)** Notwithstanding Section 24.4 of S.L. 2007-323, as repealed by this act, the actions taken by the Administrative Hearings Officer at the Department of Revenue from the period beginning July 1, 2007, are given full force and effect as if Section 24.4 of S.L. 2007-323 had never been enacted. Notwithstanding any provision of G.S. 105-259 to the contrary, any officer, employee, or agent of the State that provided access to tax information to the Administrative Hearings Officer or Administrative Assistant transferred under Section 24.4 of S.L. 2007-323 is not guilty of any offense to the extent that the provision of the information would have been authorized by that statute if the transfer had not occurred.

**SECTION 14.9.(a)** Section 31.2 of S.L. 2007-323 is amended by adding a new subsection to read:

"**SECTION 31.2.(d)** A retailer is not liable for an over-collection or under-collection of sales tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change in the rate of tax imposed under this section, over-collected or under-collected the amount of sales tax that is due. This subsection applies only to the period beginning August 1, 2007, and ending September 1, 2007."

**SECTION 14.9.(b)** This section is effective when it becomes law.



**SECTION 15.** Except as otherwise provided, this act becomes effective July 1, 2007. In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of August, 2007.

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Marc Basnight  
President Pro Tempore of the Senate

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Joe Hackney  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2007