

March 19, 2009

**S 704. POOLED TRUSTS/MEDICAID REIMBURSEMENT.** Filed 3/19/09. TO AMEND THE GENERAL STATUTES WITH RESPECT TO POOLED TRUSTS AND ESTATE RECOVERY UNDER MEDICAID.

Amends GS Chapter 36D to substitute the term *severe chronic disability* with the term *disabled* where applicable. Amends GS 36D-2 to delete the definition of *severe chronic disability* and create a definition for *disabled person* or *disabled individual*. Clarifies in the definition of *community trust* that it is a nonprofit *corporation* (was, organization) that administers *pooled trust funds for disabled persons* (was, special trust funds for persons with severe chronic disabilities) as one of its offered services. Defines *pooled trust* or *umbrella pooled trust* as a trust that contains the assets of individuals who are disabled, which is established in accordance with rules set forth by the Department of Health and Human Services (DHHS), and contains a separate sub-account for each beneficiary of the trust, but the funds in the accounts are pooled for the purposes of investment and management of funds, with one trust investment governing the umbrella pooled trust that is approved by DHHS. Makes conforming changes to the definitions of *surplus trust funds*, *beneficiary*, and *trustee*.

Amends GS 36D-1 by replacing the term *community* with *pooled* throughout. Provides that the Article is intended to promote the purpose of facilitating sound administration of trust funds for disabled persons by allowing the community trust (was, allowing family members and others to pool resources) to pool trust funds in order to make professional management investment more efficient. Makes conforming changes.

Amends GS 36D-4 by allowing the community trust to authorize the expenditure of funds from a *beneficiary's sub-account* for any goods or services, including recreational services, *but not including luxury items*, which the community trust (was, the community trust board) determines is for the *sole* benefit of the beneficiary (was, well-being of any beneficiary). Also authorizes funds from a beneficiary's sub-account to be expended for reasonable burial expenses. Prohibits a trustee, board member, or paid staff member of a community trust from undertaking legal representation or other professional services on behalf of the trust or its beneficiaries.

Amends GS 36D-5 to make available to DHHS, upon request, a copy of the community trust's (1) an annual itemized statement that shows funds collected for the year, income earned, salaries, other expenses incurred, and the opening and final *pooled trust and individual trust sub-account balances* and (2) a detailed individual statement showing services provided to the trustor's beneficiary in the preceding 12 months, and services to be provided in the upcoming 12 months.

Amends GS 36D-6 to remove the discretion on the part of the community trust to determine the extent and character of services and selection of beneficiaries when accepting gifts and using surplus funds for the purpose of qualifying as beneficiary any indigent person whose family lacks the resources to make a full contribution on the beneficiary's behalf. Allows 50% of surplus trust funds to be retained for this purpose. Requires, upon termination of an individual trust account, that at least 50% of the surplus funds be used to satisfy any claims or liens of DHHS, up to an amount equal to the total medical assistance paid on behalf of or to the disabled individual by DHHS. Provides that the amount retained by the trust be based on a sliding scale calculation, based upon the number of years the individual received services from the community trust, but in no instance may it exceed 50% of the surplus funds. Prohibits the community trust from distributing surplus funds to any remaindermen identified in the trust document. Makes a conforming change.

Amends GS 36D-7 to provide that the fact that the community trust agrees to serve as trustee for a private trust does not mean the trust meets the rules adopted by DHHS or that the disabled beneficiary is eligible for public benefits. Makes clarifying and conforming changes.

Amends GS 36D-8 to delete the provision concerning irrevocability of a community trust. Instead, requires that DHHS adopt rules governing the eligibility of pooled trust beneficiaries for state medical assistance and state-county special assistance, including pre-execution requirements, permissible trust terms, accounting and termination requirements, disbursements, and other necessary rules, as well as establishing a trust instrument template to be used for the creation of each beneficiary's trust sub-account. Specifies that rules must specifically state that

(1) the pool trust is irrevocable, (2) the state must be paid an amount equal to the total medical assistance paid on behalf of the disabled individual by DHHS from funds remaining in the individual trust sub-account upon death of the beneficiary or termination of the trust, and (3) if the pooled trust is to be subject to DHHS's subrogated rights of recovery, such subrogated rights of recovery are to be satisfied in full prior to execution or judicial approval of the trust.

Amends 36D-9 to provide that an agency may not reduce the benefits or services available to a disabled individual because that person is the beneficiary of a pooled trust, if the trust complies with rules adopted by DHHS. Makes conforming and technical changes.

Amends GS 36D-11 to require that the trustee provide a final disbursement and accounting for an individual sub-account to the Division of Medical Assistance, Third Party Recovery Section, within 60 days of the date of the beneficiary's death or upon termination of the trust. Makes technical changes.

**Intro. by Rand.**

GS 36D

May 24, 2010

**S 704. REFORM LOW-PERFORMING SCHOOLS (NEW).** Filed 3/19/09. House committee substitute makes the following changes to 1st edition.

House committee substitute deletes all provisions of the 1st edition and replaces it with *TO SOLELY PROVIDE AUTHORIZATION FOR THE STATE BOARD OF EDUCATION TO APPROVE REQUESTS OF LOCAL BOARDS OF EDUCATION TO REFORM CONTINUALLY LOW-PERFORMING SCHOOLS AS EITHER A TRANSFORMATION MODEL, RESTART MODEL, TURNAROUND MODEL, OR SCHOOL CLOSURE MODEL; TO DEFINE TRANSFORMATION MODEL AS A SCHOOL WHICH INCREASES TEACHER AND SCHOOL LEADER EFFECTIVENESS, CREATES COMPREHENSIVE INSTRUCTIONAL REFORM STRATEGIES, INCREASES LEARNING TIME, CREATES COMMUNITY-ORIENTED SCHOOLS, AND PROVIDES OPERATIONAL FLEXIBILITY AND SUSTAINED SUPPORT; TO DEFINE RESTART MODEL AS ALLOWING THE SCHOOL TO OPERATE UNDER THE SAME RULES AS A CHARTER SCHOOL OR UNDER THE MANAGEMENT OF AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH NO INCREASE IN THE MAXIMUM NUMBER OF CHARTER SCHOOLS AS PROVIDED IN GS 115C-238.29D(b); TO DEFINE TURNAROUND MODEL AS REPLACING THE PRINCIPAL IF THE PRINCIPAL HAS BEEN IN THAT POSITION FOR AT LEAST THREE YEARS AND REHIRING NO MORE THAN FIFTY PERCENT OF SCHOOL STAFF, ADOPTING A NEW SCHOOL GOVERNANCE STRUCTURE CONSISTENT WITH ARTICLE 8B OF CHAPTER 115C OF THE GENERAL STATUTES, AND IMPLEMENTING AN INSTRUCTIONAL PROGRAM ALIGNED WITH THE STANDARD COURSE OF STUDY; TO DEFINE SCHOOL CLOSURE MODEL AS CLOSING THE SCHOOL CONSISTENT WITH GS 115C-72 AND ENROLLING THE STUDENTS IN ANOTHER HIGHER-ACHIEVING SCHOOL IN THE LOCAL SCHOOL ADMINISTRATIVE UNIT CONSISTENT WITH ARTICLE 25 OF CHAPTER 115C OF THE GENERAL STATUTES; AND TO PROVIDE AUTHORIZATION TO THE STATE BOARD TO ADOPT RULES AND PROCEDURES CONSISTENT WITH THESE DEFINED MODELS; AND TO IMPLEMENT THESE MODELS WITH ANNUAL REPORTING TO THE STATE BOARD OF EDUCATION FROM THE LOCAL SCHOOL ADMINISTRATIVE UNITS.*

Enacts new GS 115C-105.37B as the title indicates.

May 25, 2010

**S 704. REFORM LOW-PERFORMING SCHOOLS.** Filed 3/19/09. House amendments make the following changes to 2nd edition.

Amendment #1 provides that nothing in proposed new GS 115C-105.37B will limit the authority of the local board of education as otherwise provided in GS Chapter 115C. Amendment #2 adds that employees assigned to a school adopting the Restart Model will receive the protections of GS 115C-325 (regulations for public school employees). Amendment #4 clarifies that no school authorized to be reformed under the new statute will count against the charter schools limit provided in GS 115C-238.29D.

June 1, 2010

**SL 2010-1 (S 704). REFORM LOW-PERFORMING SCHOOLS.** AN ACT TO SOLELY PROVIDE AUTHORIZATION FOR THE STATE BOARD OF EDUCATION TO APPROVE REQUESTS OF LOCAL BOARDS OF EDUCATION TO REFORM CONTINUALLY LOW-PERFORMING SCHOOLS AS EITHER A TRANSFORMATION MODEL, RESTART MODEL, TURNAROUND MODEL, OR SCHOOL CLOSURE MODEL; TO DEFINE TRANSFORMATION MODEL AS A SCHOOL WHICH INCREASES TEACHER AND SCHOOL LEADER EFFECTIVENESS, CREATES COMPREHENSIVE INSTRUCTIONAL REFORM STRATEGIES, INCREASES LEARNING TIME, CREATES COMMUNITY-ORIENTED SCHOOLS, AND PROVIDES OPERATIONAL FLEXIBILITY AND SUSTAINED SUPPORT; TO DEFINE RESTART MODEL AS ALLOWING THE SCHOOL TO OPERATE UNDER THE SAME RULES AS A CHARTER SCHOOL OR UNDER THE MANAGEMENT OF AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH NO INCREASE IN THE MAXIMUM NUMBER OF CHARTER SCHOOLS AS PROVIDED IN G.S. 115C-238.29D(B); TO DEFINE TURNAROUND MODEL AS REPLACING THE PRINCIPAL IF THE PRINCIPAL HAS BEEN IN THAT POSITION FOR AT LEAST THREE YEARS AND REHIRING NO MORE THAN FIFTY PERCENT OF SCHOOL STAFF, ADOPTING A NEW SCHOOL GOVERNANCE STRUCTURE CONSISTENT WITH ARTICLE 8B OF CHAPTER 115C OF THE GENERAL STATUTES, AND IMPLEMENTING AN INSTRUCTIONAL PROGRAM ALIGNED WITH THE STANDARD COURSE OF STUDY; TO DEFINE SCHOOL CLOSURE MODEL AS CLOSING THE SCHOOL CONSISTENT WITH G.S. 115C-72 AND ENROLLING THE STUDENTS IN ANOTHER HIGHER-ACHIEVING SCHOOL IN THE LOCAL SCHOOL ADMINISTRATIVE UNIT CONSISTENT WITH ARTICLE 25 OF CHAPTER 115C OF THE GENERAL STATUTES; AND TO PROVIDE AUTHORIZATION TO THE STATE BOARD TO ADOPT RULES AND PROCEDURES CONSISTENT WITH THESE DEFINED MODELS; AND TO IMPLEMENT THESE MODELS WITH ANNUAL REPORTING TO THE STATE BOARD OF EDUCATION FROM THE LOCAL SCHOOL ADMINISTRATIVE UNITS. Summarized in *Daily Bulletin* 5/24/10 and 5/25/10. Enacted May 27, 2010. Effective May 27, 2010.