

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1791

Short Title: Governors Budget. (Public)

Sponsors: Representatives Michaux, Adams, M. Alexander, Crawford (Primary Sponsors);
 England, Gill, Haire, Hughes, and Yongue.

Referred to: Appropriations, if favorable, Finance.

May 19, 2010

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

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

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

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2010."

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, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2010-2011 fiscal year.

| | |
|--|------------------|
| Current Operations – General Fund | 2010-2011 |
|--|------------------|

EDUCATION

| | |
|----------------------------------|---------------|
| Community Colleges System Office | \$ 32,282,306 |
|----------------------------------|---------------|

| | |
|----------------------------------|---------------|
| Department of Public Instruction | (314,828,201) |
|----------------------------------|---------------|



| | | |
|----|--|-------------------------|
| 1 | | |
| 2 | University of North Carolina – Board of Governors | |
| 3 | Appalachian State University | 2,867,554 |
| 4 | East Carolina University | |
| 5 | Academic Affairs | 5,758,810 |
| 6 | Health Affairs | 0 |
| 7 | Elizabeth City State University | 732,222 |
| 8 | Fayetteville State University | 1,155,186 |
| 9 | North Carolina Central University | 1,254,688 |
| 10 | North Carolina School of the Arts | 219,749 |
| 11 | North Carolina State University | |
| 12 | Academic Affairs | 10,454,599 |
| 13 | Agricultural Extension | 0 |
| 14 | Agricultural Research | 0 |
| 15 | University of North Carolina at Asheville | 1,048,747 |
| 16 | University of North Carolina at Chapel Hill | |
| 17 | Academic Affairs | 6,842,536 |
| 18 | Health Affairs | 156,027 |
| 19 | Area Health Education Centers | 115,360 |
| 20 | University of North Carolina at Charlotte | 6,433,798 |
| 21 | University of North Carolina at Greensboro | 3,521,383 |
| 22 | University of North Carolina at Pembroke | 789,362 |
| 23 | University of North Carolina at Wilmington | 3,139,825 |
| 24 | NCA&T | 2,218,210 |
| 25 | Western Carolina University | 1,412,533 |
| 26 | Winston-Salem State University | 798,672 |
| 27 | General Administration | (1,909,887) |
| 28 | University Institutional Programs | (36,298,756) |
| 29 | UNC Related Educational Programs | 34,856,563 |
| 30 | UNC Financial Aid for Private Colleges | (1,172,542) |
| 31 | North Carolina School of Science and Mathematics | 0 |
| 32 | UNC Hospitals at Chapel Hill | (1,716,463) |
| 33 | Total University of North Carolina – Board of Governors | \$ 42,678,176 |
| 34 | | |
| 35 | HEALTH AND HUMAN SERVICES | |
| 36 | | |
| 37 | Department of Health and Human Services | |
| 38 | Division of Central Management and Support | \$ (4,291,405) |
| 39 | Division of Aging and Adult Services | 1,000,000 |
| 40 | Division of Services for the Blind and Deaf/Hard of Hearing | (614,064) |
| 41 | Division of Child Development | (17,009,838) |
| 42 | Office of Education Services | (1,287,310) |
| 43 | Division of Health Service Regulation | (2,478,879) |
| 44 | Division of Medical Assistance | (394,083,299) |
| 45 | Division of Mental Health, Developmental Disabilities, | |
| 46 | and Substance Abuse Services | 33,072,692 |
| 47 | NC Health Choice | 8,467,643 |
| 48 | Division of Public Health | 6,777,031 |
| 49 | Division of Social Services | (12,655,513) |
| 50 | Division of Vocational Rehabilitation | (3,316,000) |
| 51 | Total Health and Human Services | \$ (386,418,942) |

| | | |
|----|---|-----------------|
| 1 | | |
| 2 | NATURAL AND ECONOMIC RESOURCES | |
| 3 | | |
| 4 | Department of Agriculture and Consumer Services | \$ (4,239,178) |
| 5 | | |
| 6 | Department of Commerce | |
| 7 | Commerce | 22,557,213 |
| 8 | Commerce State-Aid | 5,200,000 |
| 9 | NC Biotechnology Center | 3,000,000 |
| 10 | Rural Economic Development Center | 5,000,000 |
| 11 | | |
| 12 | Department of Environment and Natural Resources | |
| 13 | Environment and Natural Resources | (116,212) |
| 14 | Clean Water Management Trust Fund | 0 |
| 15 | | |
| 16 | Department of Labor | (1,219,388) |
| 17 | | |
| 18 | JUSTICE AND PUBLIC SAFETY | |
| 19 | | |
| 20 | Department of Correction | \$ (45,551,555) |
| 21 | | |
| 22 | Department of Crime Control and Public Safety | (819,000) |
| 23 | | |
| 24 | Judicial Department | (9,216,294) |
| 25 | Judicial Department – Indigent Defense | 1,828,954 |
| 26 | | |
| 27 | Department of Justice | (2,802,152) |
| 28 | | |
| 29 | Department of Juvenile Justice and Delinquency Prevention | (5,852,393) |
| 30 | | |
| 31 | GENERAL GOVERNMENT | |
| 32 | | |
| 33 | Department of Administration | \$ (1,712,290) |
| 34 | | |
| 35 | Office of Administrative Hearings | (307,026) |
| 36 | | |
| 37 | Department of State Auditor | (746,955) |
| 38 | | |
| 39 | Office of State Controller | 8,594,863 |
| 40 | | |
| 41 | Department of Cultural Resources | |
| 42 | Cultural Resources | (2,897,180) |
| 43 | Roanoke Island Commission | (139,344) |
| 44 | | |
| 45 | State Board of Elections | 294,735 |
| 46 | | |
| 47 | General Assembly | (2,731,696) |
| 48 | | |
| 49 | Office of the Governor | |
| 50 | Office of the Governor | (303,400) |
| 51 | Office of State Budget and Management | 407,584 |

| | | |
|----|--|--------------------------|
| 1 | OSBM – Reserve for Special Appropriations | 750,000 |
| 2 | Housing Finance Agency | 0 |
| 3 | | |
| 4 | Department of Insurance | |
| 5 | Insurance | (1,796,372) |
| 6 | Insurance – Volunteer Safety Workers' Compensation | (400,000) |
| 7 | | |
| 8 | Office of Lieutenant Governor | (63,800) |
| 9 | | |
| 10 | Department of Revenue | 3,521,022 |
| 11 | | |
| 12 | Department of Secretary of State | (537,958) |
| 13 | | |
| 14 | Department of State Treasurer | |
| 15 | State Treasurer | (422,191) |
| 16 | State Treasurer – Retirement/Benefits | 0 |
| 17 | | |
| 18 | RESERVES, ADJUSTMENTS AND DEBT SERVICE | |
| 19 | Contingency and Emergency Fund | \$ 0 |
| 20 | Compensation Increase Reserve | 61,136,150 |
| 21 | "Back to Work" Incentive Fund | 15,000,000 |
| 22 | Convert Contractual Employees to Permanent | 0 |
| 23 | Pay Reduction Hold Harmless | 62,500,000 |
| 24 | Job Development Incentive Grants Reserve | (6,600,000) |
| 25 | Statewide Administrative Support Reduction | 0 |
| 26 | Motor Fleet Rate Adjustment | (2,200,000) |
| 27 | Health Plan Reserve | 0 |
| 28 | Retirement Rate Adjustment Reserve-COLA | 20,000,000 |
| 29 | Judicial Retirement | 0 |
| 30 | IT Initiative | 0 |
| 31 | Savings Reserve Direct Appropriations | 101,524,821 |
| 32 | TOTAL CURRENT OPERATIONS – GENERAL FUND | \$ (410,319,016) |
| 33 | | |
| 34 | GENERAL FUND AVAILABILITY STATEMENT | |
| 35 | SECTION 2.2.(a) Section 2.2(a) of S.L. 2009-451 is repealed. The General Fund | |
| 36 | availability used in adjusting the 2010-2011 budget is shown below: | |
| 37 | | |
| 38 | | FY 2010-2011 |
| 39 | | |
| 40 | Unappropriated Balance from FY 2009-2010, S.L. 2009-451 | \$ 83,171,017 |
| 41 | Projected Reversions from FY 2009-2010 | 0 |
| 42 | Projected Overcollections from FY 2009-2010 | 0 |
| 43 | Less: Credit to Savings Reserve Account | 0 |
| 44 | Less: Credit to Repairs and Renovation Reserve Account | 0 |
| 45 | Beginning Unreserved Fund Balance | \$ 83,171,017 |
| 46 | | |
| 47 | Revenues Based on Existing Tax Structure | \$ 18,199,339,654 |
| 48 | | |
| 49 | Nontax Revenues | |
| 50 | Investment Income | \$ 57,500,000 |
| 51 | Judicial Fees | 239,100,000 |

| | | |
|----|--|----------------------------|
| 1 | Disproportionate Share | 100,000,000 |
| 2 | Insurance | 67,000,000 |
| 3 | Other Nontax Revenues | 182,700,000 |
| 4 | Highway Trust Fund Transfer | 72,894,864 |
| 5 | Highway Fund Transfer | 17,504,498 |
| 6 | Subtotal Nontax Revenues | \$ 736,699,362 |
| 7 | | |
| 8 | Total General Fund Availability | \$19,752,139,885 |
| 9 | | |
| 10 | Adjustments to Availability: 2010 Session | |
| 11 | Conform to Federal HIRE ACT | \$ 4,900,000 |
| 12 | Continue to Phase Out of Highway Trust Fund Transfer | (22,000,000) |
| 13 | Tax Relief for Small Business Equipment Purchases | (2,800,000) |
| 14 | High Unemployment Hiring Incentive | 0 |
| 15 | Extend Qualified Business Venture Credit and Raise Cap | (8,000,000) |
| 16 | Extend Sunset for Small Business Health Benefits Credit | (5,000,000) |
| 17 | Small Business Start-Up Tax Relief (Founder's Credit) | 0 |
| 18 | Extend Refund for Motorsports Aviation | (100,000) |
| 19 | Transfer from Disproportionate Share Reserve | 35,000,000 |
| 20 | Public Safety Fees | 14,445,560 |
| 21 | Divert Scrap Tire Tax | 1,514,642 |
| 22 | Divert White Goods Management Tax | 775,325 |
| 23 | Divert a Portion of Wildlife Taxes | 1,500,000 |
| 24 | Department of Revenue Settlement Initiative | 110,000,000 |
| 25 | Subtotal Adjustments to Availability: 2010 Session | \$ 130,235,527 |
| 26 | | |
| 27 | Revised General Fund Availability for 2010-2011 Fiscal Year | \$ 19,149,445,560 |
| 28 | | |
| 29 | Less: Total General Fund Appropriations for 2010-2011 Fiscal Year | \$ (19,149,445,560) |
| 30 | | |
| 31 | Unappropriated Balance Remaining | \$ 0 |
| 32 | | |

33 **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the
34 sum to be transferred under that subdivision for the 2010-2011 fiscal year is seventy-one
35 million dollars (\$71,000,000).

36 **SECTION 2.2.(c)** Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred
37 under that subdivision for the 2010-2011 fiscal year is one million eight hundred thousand
38 dollars (\$1,800,000).

39 **SECTION 2.2.(d)** The appropriations made in this act to the Clean Water
40 Management Trust Fund in the amount of fifty million dollars (\$50,000,000) for the 2010-2011
41 fiscal year are made pursuant to G.S. 113A-253.1 and are not in addition to the statutory
42 appropriation made in G.S. 113A-253.1.

43 **SECTION 2.2.(e)** The appropriations made in this act to the State Health Plan for
44 the 2010-2011 fiscal year are made pursuant to S.L. 2009-16 and are not in addition to the
45 appropriations made in that act.

46 **SECTION 2.2.(f)** Notwithstanding the provisions of G.S. 115C-546.1, the
47 Secretary of Revenue shall transfer the funds specified in G.S. 115C-546.1(b) to the State
48 Controller for deposit in Nontax Budget Code 19978 (Intrastate Transfers) during the
49 2009-2011 fiscal biennium to offset continued operations of the State's public schools.

50 **SECTION 2.2.(g)** Notwithstanding G.S. 143C-9-3, of the funds credited to the
51 Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the

1 Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund),
 2 to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to
 3 support General Fund appropriations for the 2010-2011 fiscal year. These funds shall be
 4 transferred on or after April 30, 2011.

5 **SECTION 2.2.(h)** Notwithstanding G.S. 143C-9-3, of the funds credited to the
 6 Health Trust Account, the sum of five million dollars (\$5,000,000) that would otherwise be
 7 deposited in the Fund Reserve shall be transferred from the Department of State Treasurer,
 8 Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited
 9 in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for
 10 the 2010-2011 fiscal year. These funds shall be transferred on or after April 30, 2011.

11 **SECTION 2.2.(i)** Notwithstanding G.S. 143C-4-2, the State Controller shall not
 12 transfer any funds from the unreserved fund balance to the Savings Reserve Account on June
 13 30, 2010. This subsection becomes effective June 30, 2010.

14 **SECTION 2.2.(j)** Notwithstanding the provisions of G.S. 143C-4-3, the State
 15 Controller shall not transfer any funds from the unreserved fund balance to the Repairs and
 16 Renovations Reserve Account on June 30, 2010. This subsection becomes effective June 30,
 17 2010.

18 **SECTION 2.2.(k)** Notwithstanding the provisions of G.S. 105-187.19(b), effective
 19 for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the
 20 General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the
 21 Scrap Tire Disposal Account.

22 Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during
 23 the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax
 24 proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management
 25 Account.

26 Notwithstanding the provisions of G.S. 105-164.44B, effective for taxes levied
 27 during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund one
 28 million five hundred thousand dollars (\$1,500,000) of the net tax proceeds that
 29 G.S. 105-164.44B directs the Secretary to transfer to the Wildlife Resources Fund.

30
 31 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

32
 33 **CURRENT OPERATIONS/HIGHWAY FUND**

34 **SECTION 3.1.** Revised appropriations from the Highway Fund of the State for the
 35 maintenance and operation of the Department of Transportation, and for other purposes as
 36 enumerated, are made for the fiscal year ending June 30, 2011, according to the following
 37 schedule:

| Current Operations – Highway Fund | 2010-2011 Adjustments |
|--|----------------------------------|
| 41 DOT – General Administration | \$ 1,544,289 |
| 42 Highway Division Administration | |
| 43 State Match for Federal Aid-Planning and Research | |
| 44 | |
| 45 Construction Program: | |
| 46 State Secondary System | 3,840,718 |
| 47 Division Small Urban Construction | |
| 48 Discretionary Funds | |
| 49 Spot Safety Improvements | |
| 50 Access and Public Services Roads | |
| 51 Total Construction Program | \$ 3,840,718 |

| | | |
|----|---|-----------------------|
| 1 | | |
| 2 | Maintenance Program | |
| 3 | Primary System | |
| 4 | Secondary System | |
| 5 | System Preservation | |
| 6 | Contract Resurfacing | |
| 7 | General Maintenance Reserve | \$ (3,698,277) |
| 8 | Total Maintenance Program | \$ (3,698,277) |
| 9 | | |
| 10 | Ferry Operations | \$ 4,805,311 |
| 11 | State Aid to Municipalities | (785,319) |
| 12 | State Aid to Railroads | 6,325,000 |
| 13 | State Aid for Public Transportation | |
| 14 | Airports | |
| 15 | OSHA | |
| 16 | Governor's Highway Safety Program | |
| 17 | Division of Motor Vehicles | 544,623 |
| 18 | | |
| 19 | Total Department of Transportation | \$ 12,576,345 |
| 20 | | |
| 21 | Appropriations to Other State Agencies: | |
| 22 | Agriculture | |
| 23 | Revenue | |
| 24 | State Treasurer | |
| 25 | Office of State Controller-BEST Shared Services | |
| 26 | Public Instruction – Civil Penalties | |
| 27 | Public Instruction – Driver Education | \$ 32,021,964 |
| 28 | CCPS – Highway Patrol | 4,700,000 |
| 29 | DENR – LUST Trust Fund | (40,000) |
| 30 | DHHS – Chemical Test | |
| 31 | Total – Other State Agencies | \$ 36,681,964 |
| 32 | | |
| 33 | Reserves and Transfers: | |
| 34 | Minority Contractor Development | |
| 35 | State Fire Protection Grant | |
| 36 | Stormwater Discharge Permit | |
| 37 | Reserve for Visitor's Centers | |
| 38 | Global TransPark | |
| 39 | Reserve for Health Insurance Adjustment | |
| 40 | Employer's Contribution to Retirement | \$ 930,050 |
| 41 | Reserve for State Employees Payback | 2,701,641 |
| 42 | Total Reserves and Transfers | \$ 3,631,691 |
| 43 | | |
| 44 | Total Highway Fund Appropriation | \$ 52,890,000 |
| 45 | | |

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing modifications to the 2010-2011 Highway Fund budget contained in this act is shown below:

Highway Fund Availability Statement

**2010-2011
Recommended**

| | | |
|---|--|-------------------------|
| 1 | | |
| 2 | Beginning Credit Balance | - |
| 3 | Estimated Revenue | \$ 1,792,540,000 |
| 4 | Estimated Reversions | - |
| 5 | | |
| 6 | Total Highway Fund Availability | \$ 1,792,540,000 |

7
8 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

9
10 **HIGHWAY TRUST FUND APPROPRIATIONS**

11 **SECTION 4.1.** Revised appropriations from the Highway Trust Fund are made for
12 the fiscal year ending June 30, 2011, according to the following schedule:

| 13 | | |
|----|--|----------------------|
| 14 | Highway Trust Fund | 2010-2011 |
| 15 | | Adjustments |
| 16 | | |
| 17 | Department of Transportation: | |
| 18 | Maximum Allowance for Administration | \$ 371,520 |
| 19 | | |
| 20 | Construction Allocation: | |
| 21 | Intrastate System | 4,995,162 |
| 22 | Urban Loop System | 2,019,836 |
| 23 | Secondary Roads | (170,627) |
| 24 | NC Mobility Fund | 94,583,983 |
| 25 | | |
| 26 | State Aid to Municipalities | 524,109 |
| 27 | | |
| 28 | Bonds: | |
| 29 | Bond Redemption | |
| 30 | Bond Interest | |
| 31 | | |
| 32 | NC Turnpike Authority | |
| 33 | | |
| 34 | Transfer to the General Fund | (22,000,000) |
| 35 | | |
| 36 | Total Highway Trust Fund Appropriations | \$ 80,323,983 |

37
38 **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

39 **SECTION 4.2.** The Highway Trust Fund availability used in developing
40 modifications to the 2010-2011 Highway Trust Fund budget contained in this act is shown
41 below:

| 42 | | |
|----|--|-------------------------|
| 43 | Highway Trust Fund Availability Statement | 2010-2011 |
| 44 | | Recommended |
| 45 | | |
| 46 | Beginning Credit Balance | - |
| 47 | Estimated Revenue | \$ 1,001,313,983 |
| 48 | Estimated Reversions | - |
| 49 | | |
| 50 | Total Highway Trust Fund Availability | \$ 1,001,313,983 |
| 51 | | |

PART V. OTHER AVAILABILITY AND APPROPRIATIONS**EDUCATION LOTTERY**

SECTION 5.1.(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 four hundred forty-one million three hundred forty-seven thousand five hundred dollars (\$441,347,500) for the 2010-2011 fiscal year.

SECTION 5.1.(b) The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2010-2011 fiscal year are as follows:

| | | |
|-----|-------------------------------------|----------------|
| (1) | Class Size Reduction | \$ 136,038,041 |
| (2) | Prekindergarten Program | 84,635,709 |
| (3) | Public School Building Capital Fund | 176,539,000 |
| (4) | Scholarships for Needy Students | 44,134,750 |
| | Total | \$ 441,347,500 |

SECTION 5.1.(c) Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2009-2010 fiscal year in the amount of thirty-one million eight hundred eighty-one thousand forty-six dollars (\$31,881,046) shall be transferred to the Public School Building Capital Fund and allocated on the basis of average daily membership (ADM) to those local school administrative units that did not qualify for funding in the 2009-2010 fiscal year pursuant to G.S. 115C-546.2(d)(2). Notwithstanding G.S. 18C-164(f) or any other provision of law, the balance of the excess lottery revenues realized in the 2009-2010 fiscal year shall be transferred to the Education Lottery Reserve Fund as established in G.S. 18C-164(b).

SECTION 5.1.(d) This section is effective June 30, 2010.

INFORMATION TECHNOLOGY FUND APPROPRIATION

SECTION 5.3. Section 5.3(b) of S.L. 2009-451 is repealed. Appropriations are made from the Information Technology Fund for the 2010-2011 fiscal year as follows:

| | FY 2010-2011 |
|---|---------------------|
| Office of Information Technology Services | |
| Information Technology Operations | |
| Center for Geographic Information and Analysis | \$740,000 |
| Enterprise Security Remediation Management Office | \$1,101,296 |
| Enterprise Project Management Office | \$1,795,000 |
| Architecture and Engineering | \$648,000 |
| Total Information Technology Operations | \$4,284,296 |
| Information Technology Projects | |
| Enterprise Licensing | \$300,000 |
| State Portal | \$500,000 |
| Enterprise Identity Management | \$1,250,000 |
| IT Consolidation | \$2,733,171 |
| Total Information Technology Projects | \$4,783,171 |
| TOTAL | \$9,067,467 |

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.4. Section 5.6 of S.L. 2009-451 reads as rewritten:

"SECTION 5.6. Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget and after consultation with the Joint Legislative Committee on

1 ~~Governmental Operations, Budget, spend funds received from grants awarded subsequent to~~
2 ~~the enactment of this act. The Office of State Budget and Management shall work with the~~
3 ~~recipient State agencies to budget grant awards according to the annual program needs and~~
4 ~~within the parameters of the respective granting entities. Depending on the nature of the award,~~
5 ~~additional State personnel may be employed on either a time-limited or permanent basis. The~~
6 ~~Office of State Budget and Management shall consult with the Joint Legislative Commission~~
7 ~~on Governmental Operations prior to expending report to the Fiscal Research Division within~~
8 ~~30 days on any funds received from grant awards. grants awarded subsequent to the enactment~~
9 ~~of this act. Funds received from such grants are hereby appropriated and shall be incorporated~~
10 ~~into the certified budget of the recipient State agency."~~

11 12 **PART VI. GENERAL PROVISIONS**

13 14 **REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS**

15 **SECTION 6.1.** G.S. 143-169.1 is repealed.

16 17 **GOVERNMENT REORGANIZATION**

18 **SECTION 6.2.(a)** At the direction of the Governor, the Governor's Budget Reform
19 and Accountability Commission (BRAC), with assistance from the Office of State Budget and
20 Management, is currently developing a proposed government reorganization that would
21 reconfigure or eliminate selected State agencies to achieve greater efficiency and improve
22 accountability. The Governor shall review the proposed plan and make recommendations in the
23 form of executive orders to the General Assembly for consideration at the 2011 legislative
24 session as provided by Article III, Sec. 5(10) of the Constitution.

25 **SECTION 6.2.(b)** Where appropriate, the study of the proposed reorganization
26 may be conducted in consultation with other regulatory or oversight agencies, such as the
27 Office of State Personnel, the Fiscal Research Division, or the Program Evaluation Division.

28 **SECTION 6.2.(c)** The Office of State Budget and Management shall use any
29 available funds to contract with outside resources where necessary and appropriate to assist in
30 developing the BRAC's proposals for reorganization.

31 32 **NETWORK SECURITY ASSESSMENTS**

33 **SECTION 6.3.(a)** G.S. 147-33.111 is amended by adding a new subsection to read:

34 "(b1) The State Chief Information Officer shall conduct assessments of network
35 vulnerability, including network penetration or any similar procedure. The State Chief
36 Information Officer may contract with another party or parties to perform the assessments.
37 Detailed reports of the security issues identified shall be kept confidential as provided in
38 G.S. 132-6.1(c)."

39 **SECTION 6.3.(b)** G.S. 147-33.111(c) reads as rewritten:

40 "(c) Before a State agency may enter into any contract with another party for an
41 assessment of network vulnerability, ~~including network penetration or any similar procedure,~~
42 the State agency shall notify the State Chief Information Officer and obtain approval of the
43 request. ~~The State Chief Information Officer shall refer the request to the State Auditor for a~~
44 ~~determination of whether the Auditor's office can perform the assessment and testing. If the~~
45 ~~State Auditor determines that the Auditor's office can perform the assessment and testing, then~~
46 ~~the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If~~
47 ~~the State Auditor determines that the Auditor's office cannot perform the assessment and~~
48 ~~testing, then with the approval of the State Chief Information Officer and State Auditor, the~~
49 ~~State agency may enter into a contract with another party for the assessment and testing. If the~~
50 ~~State agency enters into a contract with another party for assessment and testing, after approval~~
51 ~~by the State Chief Information Officer, the State agency shall issue public reports on the~~

1 general results of the reviews. The contractor shall provide the State agency with detailed
2 reports of the security issues identified that shall not be disclosed as provided in
3 G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer ~~and the~~
4 ~~State Auditor~~ with copies of the detailed reports that shall not be disclosed as provided in
5 G.S. 132-6.1(c). Nothing in this subsection shall preclude the Office of State Auditor from
6 assessing the security practices of information technology systems as a part of its duties and
7 responsibilities."

8 **SECTION 6.3.(b)** G.S. 147-64.6(c)(18) is repealed.

10 MANAGEMENT FLEXIBILITY REDUCTIONS

11 **SECTION 6.4.** Except as otherwise specified in Parts VII, VIII, and IX in this act,
12 the management flexibility reductions included in this act for all State agencies shall not be
13 allocated using an across-the-board method but in a manner that recognizes the importance of
14 the core mission of each agency. Before taking reductions in operational budgets, each agency
15 shall consider reducing budgets for senior and middle management personnel, vacant positions,
16 and program efficiencies. Items identified for reduction shall be presented to the Office of State
17 Budget and Management within 30 days of when this act becomes law. All reduction options
18 shall be reviewed and approved by the Office of State Budget and Management within 30 days
19 of an agency's submission.

21 CARRYFORWARD SEVERANCE EXPENDITURE RESERVE

22 **SECTION 6.5.(a)** Funds appropriated for the statewide severance expenditure
23 reserve in FY 2009-2010 that remain unspent and unencumbered shall remain available for the
24 2010-2011 fiscal year for severance salary continuation payments and noncontributory
25 hospital/medical coverage under the State Health Plan for employees reduced-in-force pursuant
26 to this act.

27 **SECTION 6.5.(b)** This section becomes effective June 30, 2010.

29 AMEND STATE BUDGET ACT

30 **SECTION 6.6.(a)** G.S. 143C-1-1(d) is amended by adding a new subdivision to
31 read:

32 "(31) Authorized budget. – The certified budget as defined in G.S. 143C-1-1.(d)
33 added to allowable budget adjustments authorized by the State Budget Act
34 and the Director of the Budget."

35 **SECTION 6.6.(b)** G.S. 143C-3-5.(d) reads as rewritten:

36 "(d) Funds Included in Budget. – Consistent with requirements of the North Carolina
37 Constitution, Article 5, Section 7(a), the Governor's Recommended State Budget, together with
38 the Budget Support Document, shall include recommended expenditures of State funds from all
39 Governmental and Proprietary Funds, as those funds are described in G.S. 143C-1-3, and all
40 funds established for The University of North Carolina and its constituent institutions that are
41 subject to Chapter 143C. Except where provided otherwise by federal law, funds received from
42 the federal government become State funds when deposited in the State treasury and shall be
43 classified and accounted for in the Governor's budget recommendations no differently than
44 funds from other sources."

45 **SECTION 6.6.(c)** G.S. 143C-6-1(c) reads as rewritten:

46 "(c) Certification of the Budget. – The Director of the Budget shall certify to each State
47 agency the amount appropriated to it for each program and each object from all ~~governmental~~
48 ~~and proprietary funds.~~ funds included in the budget as defined in G.S. 143C-3-5.(d). The
49 certified budget for each State agency shall reflect the total of all appropriations enacted for
50 each State agency by the General Assembly in the Current Operations Appropriations Act, the
51 Capital Improvements Appropriations Act, and any other act affecting the State budget. The

1 certified budget for each State agency shall follow the format of the Budget Support Document
2 as modified to reflect changes enacted by the General Assembly."

3 **SECTION 6.6.(d)** G.S. 143C-6-4 reads as rewritten:

4 "(a) Findings. – The General Assembly recognizes that even the most thorough budget
5 deliberations may be affected by unforeseeable events. Under limited circumstances set forth in
6 this section, the Director may adjust the enacted budget by making transfers among lines of
7 expenditure, purposes, or programs or by increasing expenditures funded by departmental
8 receipts. Under no circumstances, however, shall total General Fund expenditures for a State
9 department exceed the amount appropriated to that department from the General Fund for the
10 fiscal year.

11 (b) Adjustments to the Certified Budget. – Notwithstanding the provisions of
12 G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more
13 than was authorized in the certified budget for all of the following:

14 (1) An object or line item within a purpose or program so long as the total
15 amount expended for the purpose or program is no more than was authorized
16 in the certified budget for the purpose or program.

17 (2) A purpose or program if the overexpenditure of the purpose or program is:

18 a. Required by a court or Industrial Commission order;

19 b. Authorized under G.S. 166A-5(1)a.9. of the Emergency Management
20 Act; or

21 c. Required to call out the National Guard.

22 (3) A purpose or program not subject to the provisions of subdivision (b)(2) of
23 this subsection, but only in accord with the following restrictions: (i) the
24 overexpenditure is required to continue the purpose or programs due to
25 complications or changes in circumstances that could not have been foreseen
26 when the budget for the fiscal period was enacted, (ii) the scope of the
27 purpose or program is not increased, and (iii) the overexpenditure is
28 authorized on a nonrecurring basis, ~~and (iv) under no circumstances shall~~ If
29 the total requirements for a State department exceed the department's
30 certified budget for the fiscal year by more than three percent (3%) the
31 Director shall report the reasons for the deviation to the Joint Legislative
32 Commission on Governmental Operations within 30 days of the increase in
33 budget. without prior consultation with the Joint Legislative Commission on
34 Governmental Operations.

35 (4) Notwithstanding subdivision (3) of this subsection, a State agency may
36 redistribute salary reserve on a permanent basis to create new positions or
37 provide salary increases or use departmental receipts that are recurring in
38 nature to hire permanent receipt-supported positions.

39 (c) Overexpenditures Reported. – The Director shall report quarterly, beginning
40 October 31, to the Joint Legislative Commission on Governmental Operations on
41 overexpenditures approved by the Director under subdivisions ~~(2) and (3)~~ (2), (3), and (4) of
42 subsection (b) of this section.

43 (d) Overexpenditures in Senate Budget. – The President Pro Tempore of the Senate
44 may approve expenditures for more than was authorized in the enacted budget for objects or
45 line items in the budget of the Senate.

46 (e) Overexpenditures in House of Representatives Budget. – The Speaker of the House
47 of Representatives may approve expenditures for more than was authorized in the enacted
48 budget objects or line items in the budget of the House of Representatives.

49 (f) Transfers Between Line Items or Programs in General Assembly Budget Other
50 Than Senate and House of Representatives. – Expenditures exceeding amounts authorized for
51 programs, objects, or line items in the budget of the General Assembly other than those of the

1 Senate and House of Representatives shall be approved jointly by the President Pro Tempore of
2 the Senate and the Speaker of the House of Representatives.

3 (g) Transfers in The University of North Carolina Budget. – Transfers or changes
4 within the budget of The University of North Carolina may be made as provided in Article 1 of
5 Chapter 116 of the General Statutes.

6 (h) Transfers Within the Office of the Governor. – Transfers or changes as between
7 objects or line items in the budget of the Office of the Governor may be made by the
8 Governor."

9 **SECTION 6.6.(e)** G.S. 143C-6-21 reads as rewritten:

10 **"§ 143C-6-21. Payments to nonprofits.**

11 Except as otherwise provided by law, an annual appropriation of one hundred thousand
12 dollars (\$100,000) or less to or for the use of a nonprofit corporation ~~shall~~may be made in a
13 single annual payment, in the discretion of the Director of the Budget. An annual appropriation
14 of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit
15 corporation shall be made in quarterly or monthly payments, in the discretion of the Director of
16 the Budget."

17 **SECTION 6.6.(f)** G.S. 143C-8-7 reads as rewritten:

18 **"§ 143C-8-7. When a State agency may begin a capital improvement project.**

19 (a) No State agency may expend funds for the construction or renovation of any capital
20 improvement project except as needed to comply with this Article or otherwise authorized by
21 the General Assembly. Funds that become available by gifts, excess patient receipts above
22 those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private
23 grants, receipts becoming a part of special funds by act of the General Assembly, or any other
24 funds available to a State agency or institution may be utilized for advanced planning through
25 the working drawing phase of capital improvement projects, upon approval of the Director of
26 the Budget.

27 (b) The Director of the Budget may authorize the construction of a capital improvement
28 project not specifically authorized by the General Assembly if such project is to be funded by
29 gifts, federal or private grants, special fund receipts, excess patient receipts above those
30 budgeted at the University of North Carolina Hospitals at Chapel Hill, or any other
31 non-General Fund money available to the State agency or institution. Prior to authorizing the
32 construction of a capital improvement project pursuant to this subsection, the Director shall
33 consult with the Joint Legislative Commission on Governmental Operations."

34 **SECTION 6.6.(g)** G.S. 143C-8-12 reads as rewritten:

35 **"§ 143C-8-12. University system capital improvement projects from sources that are not**
36 **General Fund sources: ~~approval of new project or~~ that involve a change in**
37 **scope of existing project.**

38 Notwithstanding any other provision of this Chapter, the Director of the Budget may, upon
39 request of the Board of Governors of The University of North Carolina and after consultation
40 with the Joint Legislative Commission on Governmental Operations, approve: ~~(i) expenditures~~
41 ~~to plan a capital improvement project of The University of North Carolina the planning for~~
42 ~~which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital~~
43 ~~improvement project of The University of North Carolina that is to be funded entirely with~~
44 ~~non-General Fund money, or (iii) a change in the scope of any previously approved capital~~
45 ~~improvement project of The University of North Carolina provided that both the project and~~
46 ~~change in scope are funded entirely with non-General Fund money."~~

47
48 **AMEND PRIOR CONSULTATION STATUTE**

49 **SECTION 6.8.** G.S. 120-76.1(b) reads as rewritten:

50 "(b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or
51 any other provision of law to consult with the Commission prior to taking an action shall

1 submit a detailed report of the action under consideration to the Chairs of the Commission, the
2 Commission Assistant, and the Fiscal Research Division of the General Assembly. If the
3 Commission does not hold a meeting to hear the consultation within ~~90~~ 30 days of receiving the
4 submission of the detailed report, the consultation requirement is satisfied. ~~With regard to~~
5 ~~capital improvement projects of The University of North Carolina, if the Commission does not~~
6 ~~hold a meeting to hear the consultation within 30 days of receiving the submission of the~~
7 ~~detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied."~~

9 REPEAL SPECIAL FUNDS CONSULTATION

10 SECTION 6.9. Section 6.6.B of Session Law 2009-451 is repealed.

12 AMEND ARRA FUNDS

13 SECTION 6.9A. Section 6.6C.(b) of Session Law 2009-451 reads as rewritten:

14 "SECTION 6.6C.(b) Appropriation of ARRA Funds. – Funds received from ARRA grants
15 and receipts not specified in this act are hereby appropriated in the amounts provided in the
16 notification of award from the federal government or any entity acting on behalf of the federal
17 government to administer federal ARRA funds. ~~Prior to allocation of funds not expressly~~
18 ~~delineated in this act, the OSBM and affected state agencies shall consult with report to the~~
19 Joint Legislative Commission on Governmental Operations, on ARRA grants received that are
20 not expressly delineated in this act."

22 DRIVER EDUCATION

23 SECTION 6.10.(a) The Highway Safety Research Center Institute of the
24 University of North Carolina at Chapel Hill shall work in collaboration with the Department of
25 Public Instruction and the Governor's Highway Safety Commission to create a standard
26 curriculum to be used for the Driver Education Program in the Department of Public
27 Instruction. The curriculum shall be ready for use in the school year beginning in the fall of
28 2011 and shall be used for all driver education programs funded with State funds.

29 SECTION 6.10.(b) The Office of State Budget and Management (OSBM) shall
30 review the funding and efficacy of the Driver Education Program to determine the most
31 appropriate source of funds to support the program and outcomes of the funding on student
32 driving. The review shall include recommendations for improving services, reducing costs
33 and/or duplication, and alternative funding mechanisms including fees. OSBM will also work
34 with the Department of Public Instruction to establish performance measures for the program to
35 be used to determine the program's effectiveness. OSBM shall make recommendations to the
36 Governor and the General Assembly no later than November 1, 2010.

38 DEPARTMENT OF ADMINISTRATION TO IMPLEMENT PURCHASING 39 STANDARDS FOR IMPROVING ENERGY EFFICIENCY

40 SECTION 6.11. G.S. 143-64.12(b) reads as rewritten:

41 "(b) The Department of Administration shall develop and implement policies,
42 procedures, and standards to ensure that State purchasing practices improve efficiency
43 regarding energy, water, and other utility use and take the cost of the product over the
44 economic life of the product into consideration. The Department of Administration shall adopt
45 and implement Building Energy Design Guidelines. These guidelines shall include energy-use
46 goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on
47 building systems and technologies. The Department of Administration shall modify the design
48 criteria for construction and renovation of facilities of State buildings and State institutions of
49 higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to
50 G.S. 143-64.15. For new or emerging energy-use reducing technologies, where uncertainties
51 about service life, costs, and/or potential cost savings may introduce uncertainty about the

1 accuracy of life cycle cost analysis, the Department of Administration may require additional
2 deterministic computations to aid in the evaluation life cycle cost analysis results."
3

4 **PART VII. PUBLIC SCHOOLS**

5 **CHILDREN WITH DISABILITIES**

7 **SECTION 7.1.** The State Board of Education shall allocate funds for children with
8 disabilities on the basis of three thousand five hundred ninety-eight dollars and fifty-five cents
9 (\$3,598.55) per child. Each local school administrative unit shall receive funds for the lesser of
10 (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths
11 percent (12.5%) of the 2010-2011 allocated average daily membership in the local school
12 administrative unit. The dollar amounts allocated under this section for children with
13 disabilities shall also adjust in accordance with legislative salary increments, retirement rate
14 adjustments, and health benefit adjustments for personnel who serve children with disabilities.
15

16 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

17 **SECTION 7.2.** The State Board of Education shall allocate funds for academically
18 or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars
19 and ninety cents (\$1,192.90) per child. A local school administrative unit shall receive funds
20 for a maximum of four percent (4%) of its 2010-2011 allocated average daily membership,
21 regardless of the number of children identified as academically or intellectually gifted in the
22 unit. The dollar amounts allocated under this section for academically or intellectually gifted
23 children shall also adjust in accordance with legislative salary increments, retirement rate
24 adjustments, and health benefit adjustments for personnel who serve academically or
25 intellectually gifted children.
26

27 **ABCS OF PUBLIC EDUCATION**

28 **SECTION 7.3.** Notwithstanding G.S. 115C-105.36, the State Board of Education
29 shall place a moratorium on financial awards paid to school personnel in the 2010-2011 fiscal
30 year based on 2009-2010 student academic performance.
31

32 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS ALLOTMENT FORMULA**

33 **SECTION 7.4.(a)** Funds are appropriated in this act for the North Carolina Virtual
34 Public School (NCVPS). Beginning with 2010-2011 the State Board of Education shall allocate
35 funds appropriated in this act to local school administrative units based on the NCVPS
36 allotment formula developed pursuant to Section 7.16(d) of S. L. 2006-66.

37 **SECTION 7.4.(b)** Section 7.9(f) of S. L. 2009-451 is repealed.
38

39 **STATE FISCAL STABILIZATION FUND APPROPRIATION**

40 **SECTION 7.5.** In order to ensure compliance with the requirements of Title XIV
41 of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other
42 provision of law, the Office of State Budget and Management shall adjust the State Fiscal
43 Stabilization Fund appropriation amounts, including any associated budget reductions, between
44 the State Public School Fund and The University of North Carolina budget to align with the
45 requirements of the North Carolina State Fiscal Stabilization Fund application as amended for
46 2010-2011.
47

48 **MORE AT FOUR PROGRAM**

49 **SECTION 7.6.(a)** The Department of Public Instruction shall continue the
50 implementation of the More at Four prekindergarten program for four-year-olds who are at risk
51 for school failure in all counties. The state prekindergarten program shall serve children who

1 reach the age of four on or before August 31 of that school year and who meet eligibility
2 criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be
3 operated in public schools, Head Start programs, and licensed child care facilities that choose to
4 participate under procedures defined by the Office of Early Learning within the Department of
5 Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early
6 Learning and shall be operated in accordance with standards adopted by the State Board of
7 Education.

8 **SECTION 7.6.(b)** The Office of Early Learning shall specify program standards
9 and requirements addressing:

- 10 (1) early learning standards and curricula;
- 11 (2) teacher education and specialized training;
- 12 (3) teacher in-service training and professional development;
- 13 (4) maximum class size;
- 14 (5) staff-child ratio;
- 15 (6) screenings, referrals, and support services;
- 16 (7) meals; and
- 17 (8) monitoring of sites to demonstrate adherence to State programs standards.

18 **SECTION 7.6.(c)** The State Board of Education shall submit an annual report no
19 later than March 15 of each year to the Joint Legislative Commission on Governmental
20 Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations
21 Committee on Education, the House of Representatives Appropriations Subcommittee on
22 Education, the Office of State Budget and Management, and the Fiscal Research Division. The
23 report shall include the following:

- 24 (1) The number of children participating in State prekindergarten.
- 25 (2) The number of children participating in State prekindergarten who have
26 never been served in other early education programs, such as child care,
27 public or private preschool, Head Start, Early Head Start, or early
28 intervention programs.
- 29 (3) The expected State prekindergarten expenditures for the programs and the
30 source of the local contributions.
- 31 (4) The results of an annual evaluation of the program.

32 **SECTION 7.6.(d)** The Office of Early Learning shall establish income eligibility
33 requirements for the program not to exceed seventy-five percent (75%) of the State median
34 income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of
35 seventy-five percent (75%) of median income if they have other designated risk factors.
36 Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the
37 United States, including the North Carolina National Guard, State military forces, or a reserve
38 component of the armed forces, who is ordered to active duty by the proper authority within the
39 last 18 months or expected to be ordered within the next 18 months, or (ii) a member of the
40 armed forces of the United States, including the North Carolina National Guard, State military
41 forces, or a reserve component of the armed forces, who was injured or killed while serving on
42 active duty, shall be eligible for the program.

43 **SECTION 7.6.(e)** The More at Four program funding shall not supplant any
44 funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of
45 existing four-year-old classrooms with More at Four program funding shall be permitted when
46 current funding is eliminated, reduced, or redirected as required to meet other specified federal
47 or State mandates.

48 **SECTION 7.6.(f)** The Office of Early Learning shall develop a new More at Four
49 funding model to be implemented in the 2010-2011 fiscal year. The per child funding rates
50 shall be based on participating provider cost structures and shall require a contribution of local
51 resources to support the full cost of providing high quality prekindergarten. The Office of Early

1 Learning shall implement an administrative cap on More at Four program funding and shall
2 establish parameters for allowable administrative costs.

4 LEADERSHIP ACADEMY

5 SECTION 7.7. Of the funds appropriated in this act to the Department of Public
6 Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may
7 be used to support a Leadership Academy that provides professional development to
8 superintendents enabling them to train principals to address critical areas such as student
9 achievement and teacher recruitment and retention.

11 PROTECT THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

12 SECTION 7.8.(a) Section 7.8(b) of S. L. 2009-451 reads as rewritten:

13 "SECTION 7.8.(b) For fiscal years ~~2009-2010 and~~ 2010-2011, local school administrative
14 units shall ~~make every effort to reduce spending whenever and wherever such budget~~
15 ~~reductions are appropriate with the goal of to protecting protect~~ direct classroom services, ~~and~~
16 ~~services for students at risk and children with special needs.~~ Local school administrative units
17 shall implement administrative and other operating efficiencies prior to and minimize the
18 dismissal of classroom-based personnel. Local school administrative units shall maximize
19 federal by maximizing funds received from the including American Recovery and
20 Reinvestment Act of 2009 (ARRA), P.L. 111-5; Keep Our Educators Working Act or any other
21 federal act which provides jobs funds; Individuals with Disabilities Act (IDEA); Title I; and
22 Title II funds. Local school administrative units must designate all Title I-eligible schools and
23 must maximize attrition prior to the dismissal of classroom-based personnel. Notwithstanding
24 G.S. 115C 301 or any other law, local school administrative units shall have the maximum
25 flexibility to use allotted teacher positions to maximize student achievement in grades 4-12.
26 Local school administrative units shall ensure that the Allocation of teachers, teacher
27 assistants, and class size requirements in grades K-3 shall remain unchanged."

28 SECTION 7.8.(b) Section 7.8(d) of S. L. 2009-451 reads as rewritten:

29 "SECTION 7.8.(d) Each unit shall report to the State Board of Education, the Office of
30 State Budget and Management, and the Department of Public Instruction on the flexibility
31 budget reductions it has identified for the unit, including an explanation of how administrative
32 efficiencies, federal funds, and attrition have been maximized prior to the dismissal of
33 classroom-based personnel, within 30 days of the date this act becomes law."

35 DEPARTMENT OF PUBLIC INSTRUCTION

36 SECTION 7.9.(a) Notwithstanding S. L. 2009-451, the Department of Public
37 Instruction shall eliminate 47 appropriation-supported full-time equivalent (FTE) positions. No
38 receipt-supported positions are required to be eliminated.

39 SECTION 7.9.(b) Section 7.14 of S. L. 2009-451 is repealed.

40 SECTION 7.9.(c) The Department of Public Instruction shall review all federal
41 funds, including those currently used for State-level positions and contracts that are not a
42 condition of receiving the federal funds. The Department shall reallocate these funds to local
43 school administrative units whenever possible.

44 SECTION 7.9.(d) The Department shall report on the reallocation of these funds to
45 local school administrative units, the Office of the Governor, and the Office of State Budget
46 and Management no later than January 15, 2011.

48 WORKERS' COMPENSATION STUDY

49 SECTION 7.10.(a) The Office of State Budget and Management, in consultation
50 with the Office of State Personnel and the Office of the State Controller, is directed to study the
51 Workers' Compensation program in the North Carolina Department of Public Instruction and

1 the North Carolina Community College System. The study and report shall contain analyses of
2 the following items in comparison to states in the Southern Regional Education Board (SREB)
3 region:

- 4 (1) Funding sources that support claims payments for locally employed public
5 school and community college campus personnel, including claims payment
6 analyses for state-funded personnel;
- 7 (2) State policy and statutes regarding claims payment for local school and
8 campus personnel;
- 9 (3) Number of school and campus claims, and the percent of claims to local
10 eligible personnel;
- 11 (4) Strategies implemented to limit number of claims and to provide
12 return-to-work incentives;
- 13 (5) Practices and duration of temporary total disability (TTD) payments,
14 including percentage of TTD payments compared to all workers'
15 compensation payments; and
- 16 (6) Policies related to collection of payments by local claimants once retirement
17 eligibility is reached, and practices related to social security income offset to
18 TTD claim payments.

19 **SECTION 7.10.(b)** The study and report shall also address the following issues
20 related to Workers' Compensation statutes, policies, and practices specific to North Carolina
21 public schools and community college campuses:

- 22 (1) Estimate of financial impact to local schools and campuses, including
23 staffing costs if these entities were to partially or fully assume claims costs
24 for State-funded local personnel;
- 25 (2) Risks to schools and campuses associated with the ability to obtain workers'
26 compensation insurance and to assume claims costs for State-funded local
27 personnel;
- 28 (3) Statutory and contract changes necessary to revise current claims payment
29 practices in North Carolina;
- 30 (4) Listing of schools and community college campuses by number of claims as
31 a percentage of eligible employees and by costs related to the percentage of
32 eligible employees;
- 33 (5) Listing of all Local Education Agencies and campuses that have no
34 return-to-work policies and strategies for implementing a return-to-work
35 policy, including a requirement to follow the State return-to-work policy as a
36 default;
- 37 (6) Practices/incentives currently used by SREB states but not currently
38 implemented in North Carolina that could contribute to cost containment;
- 39 (7) Costs incurred by the State and by schools and campuses due to late
40 claims-reporting to the Third Party Administrator (TPA) by schools and
41 campuses; and
- 42 (8) Potential cost containment opportunities with implementation of a cap on the
43 duration of TTD payments.

44 **SECTION 7.10.(c)** A final report is due to the Office of State Budget and
45 Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research
46 Division no later than December 1, 2010.

47 **CAREER AND COLLEGE-READY, SET, GO!**

48 **SECTION 7.11.(a)** The State Board of Education shall work with all member
49 institutions of the Education Cabinet and the Joint Governing Boards to focus funding and
50 program priorities to ensure that all North Carolina students graduate prepared to successfully
51

- 1 pursue a career or further education. Each Education Cabinet Institution shall prioritize the
2 Governor's Ready, Set, Go! Initiative and ensure that all students PK-20:
- 3 (1) Are prepared to be successful in school and can successfully progress
4 through PK-20 education. This includes, but is not limited to:
 - 5 a. Establishment of the Governor's Child Advocacy Council to increase
6 ways for all children to come to school healthy and ready to learn;
 - 7 b. Investment in early child development programs like Smart Start and
8 More at Four;
 - 9 c. Investment in smaller class sizes in K-3;
 - 10 d. Implementation of student diagnostics in grades K-3 and 5 to ensure
11 that all students at a minimum possess grade-level reading, writing
12 and math skills;
 - 13 e. Implementation of student diagnostics for career and college
14 readiness in grades 8 and 11 so students graduate prepared for work,
15 college, or technical training; and
 - 16 f. Implementation of the Student Learning Conditions Survey for
17 grades 7, 9, and 11 that is aligned with the Teacher Working
18 Conditions Survey.
 - 19 (2) Receive clear standards and high expectations, and benefit from the best
20 teachers and principals that can most effectively help students reach those
21 standards. This includes, but is not limited to:
 - 22 a. Adoption of the State-led National Common Standards including
23 Career and College Ready Skills and assessments that prepare
24 students for the global economy;
 - 25 b. Evaluation of Teacher Preparation programs to identify best practices
26 and programs that produce effective teachers;
 - 27 c. Increased access to virtual learning opportunities for students and
28 teachers like those provided through the NC Virtual Public School;
 - 29 d. Increased access to Science, Technology, Engineering and
30 Mathematics (STEM) opportunities;
 - 31 e. Development of leadership academies that recruit and prepare
32 effective principals;
 - 33 f. Development of a p/c-20 data system to provide comprehensive
34 information on students;
 - 35 g. Reduction and eventual elimination of low-performing status in
36 North Carolina schools; and
 - 37 h. Job-imbedded professional development for teachers and principals.
 - 38 (3) Fully understand and complete the prerequisites for the career, certification,
39 or degree of choice that promotes workforce success. This includes, but is
40 not limited to:
 - 41 a. Development of Academic boot camps for high school students who
42 need additional support in reading, composition, and math;
 - 43 b. Consolidation of high school transition courses to provide high
44 school students with more college level or career and technical
45 courses;
 - 46 c. Increased access to virtual college level and specific career and
47 technical courses for high school students;
 - 48 d. Alignment between high school and college curricula so that all
49 students are prepared for higher education work; and

- 1 e. Implementation of NCSuccess, a program designed to increase the
2 number of certificates, associate or bachelor's degrees in higher
3 education.

4 **SECTION 7.11.(b)** The Education Cabinet shall report by January 15, 2010, to the
5 Office of the Governor, the Joint Governing Boards, and the Joint Education Oversight
6 Committee on its progress toward reaching the Governor's goal that every North Carolina
7 student will graduate ready to be successful in a career, a 2- or 4-year college or technical
8 training.

9
10 **SCHOOL CONNECTIVITY INITIATIVE**

11 **SECTION 7.12.** Section 7.12(a) of S.L. 2009-451, as amended by Section 3E of
12 S.L. 2009-575, reads as rewritten:

13 "**SECTION 7.12.(a)** Up to three hundred fifty thousand dollars (\$350,000) may be
14 transferred ~~annually~~ for this and succeeding biennia to the Office of the Governor for NC
15 Virtual (NCV) within the Education Cabinet and for the Education E-Learning Portal. These
16 funds shall be used to provide services to coordinate e-learning activities across all State
17 educational agencies and to make the Education E-Learning Portal fully operational by
18 December 1, 2009."

19
20 **PART VIII. COMMUNITY COLLEGES**

21
22 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

23 **SECTION 8.1.(a)** Up to one million two hundred fifty thousand dollars
24 (\$1,250,000) of the funds appropriated in this act to the Community Colleges System Office for
25 the College Information System shall not revert at the end of the 2009-2010 fiscal year but shall
26 remain available until expended. These funds may be used only to purchase periodic system
27 upgrades.

28 **SECTION 8.1.(b)** Subsection (a) of this section becomes effective June 30, 2010.

29
30 **ESTABLISH GED TESTING FEES**

31 **SECTION 8.2.(a)** The State Board of Community Colleges shall assess an initial
32 fee of fifteen dollars (\$15.00) to students taking the General Education Development (GED)
33 test. Students shall be charged an additional five dollars (\$5.00) for each subsequent time they
34 retake the test. These fees shall become effective August 15, 2010.

35 **SECTION 8.2.(b)** Effective July 1, 2011, G.S. 115D-5(s) reads as rewritten:

36 "(s) **(Effective July 1, 2011)** The State Board of Community Colleges may establish,
37 retain and budget fees charged to students taking the General Education Development (GED)
38 test. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test,
39 including the cost of scoring the test, (ii) offset the costs of printing GED certificates, and (iii)
40 meet federal and State reporting requirements related to the test."

41 **SECTION 8.2.(c)** The State Board of Community Colleges shall adopt rules
42 implementing subsection (b) of this section. Such rules shall be in place before fees are
43 increased.

44
45 **RESTORE COMMUNITY REENTRY EDUCATION PROGRAMS**

46 **SECTION 8.3.(a)** Section 8.11(e) of S. L. 2009-451 is repealed, effective July 1,
47 2010.

48 **SECTION 8.3.(b)** Funding in this act restores funding only for Basic Skills and
49 continuing education courses that ensure adequate literacy and job skills for inmates who will
50 be released from incarceration and return to their communities. Funding is not restored for

1 curriculum courses, and these courses will no longer generate State funding through budgeted
2 FTE.

3
4 **PERMIT TRANSFER OF EQUIPMENT TITLED TO THE STATE BOARD FROM**
5 **ONE COMMUNITY COLLEGE TO ANOTHER**

6 **SECTION 8.4.** G.S. 115D-15(a) reads as rewritten:

7 "(a) The board of trustees of any institution organized under this Chapter may, with the
8 prior approval of the North Carolina Community Colleges System Office, convey a
9 right-of-way or easement for highway construction or for utility installations or modifications.
10 When in the opinion of the board of trustees the use of any other real property owned or held
11 by the board of trustees is unnecessary or undesirable for the purposes of the institution, the
12 board of trustees, subject to prior approval of the State Board of Community Colleges, may
13 sell, exchange, or lease the property. The board of trustees may dispose of any personal
14 property owned or held by the board of trustees without approval of the State Board of
15 Community Colleges. Personal property titled to the State Board of Community Colleges
16 consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community
17 college at no cost and without the approval of the State Board of Community Colleges or the
18 Department of Administration, Division of Surplus Property.

19 Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any
20 real or personal property under this subsection. Personal property also may be disposed of
21 under procedures adopted by the North Carolina Department of Administration. The proceeds
22 of any sale or lease shall be used for capital outlay purposes, except as provided in subsection
23 (b) of this section."
24

25 **STUDENT SERVICES BUDGET REALIGNMENT**

26 **SECTION 8.5.** It is the intent of the General Assembly to ensure that community
27 colleges have the resources necessary to administer student services, especially in the area of
28 financial aid. The State Board of Community Colleges shall realign formula funding by
29 increasing formula funding for student services by thirty-two million dollars (\$32,000,000) and
30 reducing formula funding for curriculum and continuing education instruction by a
31 commensurate amount.
32

33 **CARRYFORWARD FOR COMMUNITY COLLEGES EQUIPMENT**

34 **SECTION 8.6.(a)** Subject to the approval of the Office of State Budget and
35 Management and cash availability, the North Carolina Community College System Office may
36 carry forward up to ten million dollars (\$10,000,000) of the overrealized tuition and fees that
37 were not reverted in fiscal year 2009-2010 to be reallocated to the State Board of Community
38 Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with
39 G.S. 115D-31(e).

40 **SECTION 8.6.(b)** This section becomes effective June 30, 2010.
41

42 **STATE AID BUDGET FLEXIBILITY**

43 **SECTION 8.7.** G.S. 115D-31 is amended by adding a new subsection to read:

44 "(b1) A local community college may use all State funds allocated to it, except for
45 Literacy funds and Customized Training funds, for any authorized purpose that is consistent
46 with the college's Institutional Effectiveness Plan. Each local community college shall include
47 in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to
48 meet the demands of the local community and to maintain a presence in all previously funded
49 categorical programs."
50

51 **MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

1 **SECTION 8.8.** Section 8.24 of S.L. 2009-451 reads as rewritten:

2 **"SECTION 8.24.** The management flexibility reduction for the North Carolina Community
3 College System shall be allocated by the State Board of Community Colleges in a manner that
4 accounts for the unique needs of each college and provides for the equitable distribution of
5 funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to
6 instructional budgets, the community colleges shall consider reducing budgets for senior and
7 middle management personnel and for programs that have both low-enrollment and
8 low-postgraduate success. Colleges shall minimize the impact on student support services and
9 on the retraining of dislocated workers. Colleges shall not reduce financial aid, equipment, or
10 the Small Business Centers. The community colleges shall also review their institutional funds
11 to determine whether there are monies available in those funds that can be used to assist with
12 operating costs before taking reductions in instructional budgets."
13

14 **CAREER AND COLLEGE PROMISE**

15 **SECTION 8.9.(a)** The North Carolina Community College System (NCCCS) and
16 The University of North Carolina shall develop the Career and College Promise program, a
17 structured programmatic approach to allow high school students to take identified college
18 courses that lead to seamless college and career readiness pathways. Career and College
19 Promise shall establish a core program of courses that supports students' transition into
20 secondary education and the workplace. The program shall eliminate duplication of community
21 college and university offerings by delineating responsibilities for courses. The core program
22 will consist of science, technology, engineering, and math (STEM courses), plus English,
23 foreign language, and limited other core courses satisfying college general education
24 requirements and the Comprehensive Articulation Agreement between the NCCCS and UNC.

25 **SECTION 8.9.(b)** Notwithstanding any other provision of law, Career and College
26 Promise shall be implemented beginning with the spring semester of 2011.

27 **SECTION 8.9.(c)** The NC Community College System Office, the University of
28 North Carolina General Administration, and the State Board of Education, shall study and
29 develop a unified plan to provide access to college-level courses to North Carolina high school
30 students. The study shall determine the following:

- 31 (1) the types of courses to offer;
- 32 (2) the most efficient and cost-effective method to offer those courses;
- 33 (3) the most appropriate entity to offer those courses;
- 34 (4) the most appropriate funding mechanism;
- 35 (5) the possibility of combining existing joint high school programs; and
- 36 (6) the fiscal impact of each recommendation or option.

37 The results of the study shall be provided by November 15, 2010, to the Office of the
38 Governor, the chairs of the Appropriations and Education Committees of the House and Senate,
39 the Fiscal Research Division, and the Office of State Budget and Management.
40

41 **PART IX: UNIVERSITIES**

42 **UNC BOARD OF GOVERNORS REVIEW OF FACULTY RECRUITMENT AND** 43 **RETENTION**

44 **SECTION 9.1.** The Board of Governors of The University of North Carolina shall
45 review its current policies regarding financial incentives to retain faculty. The review shall
46 focus on the prioritization of Recruitment and Retention dollars and identification of key
47 metrics to measure overall program effectiveness. The Board of Governors shall report its
48 findings and recommendations for changes to the policies, if any, to the Joint Legislative
49 Education Oversight Committee, the Office of State Budget and Management, and the Fiscal
50 Research Division by April 1, 2011.
51

CAMPUS-INITIATED TUITION INCREASES

SECTION 9.2. Section 9.23(a) of S.L. 2009-451 reads as rewritten:

"**SECTION 9.23.(a)** Notwithstanding any other provision of law, ~~no campus-initiated tuition increase for students who are North Carolina residents shall be approved by the Board of Governors of The University of North Carolina or implemented for the 2010-2011 academic year except as provided otherwise by this section.~~ the campus-initiated tuition increases approved by the Board of Governors of The University of North Carolina for the 2010-2011 academic year may be implemented for the 2010-2011 academic year."

REPORTING ON UNC SCHOOL OF THE ARTS HIGH SCHOOL INITIATIVE

SECTION 9.3.(a) The Board of Governors shall conduct a study on the high school program at the University of North Carolina School of the Arts (UNCSA). Information in the report should include, but is not to be limited to:

- (1) Funding per high school student compared to average cost per student. Costs shall include faculty, educational supplies, meals provided by the State, residential and housing expenses, including residential staff and additional security requirements.
- (2) Academic class size compared to average class size of neighboring public high schools and other comparable performing arts high schools across the nation.
- (3) Composition of high school student body, including county of residence, family income level, school grade and academic achievement level, as measured by end-of-grade tests, upon entering the high school program.
- (4) High school graduation statistics, including overall graduation rate, average number of years each graduate attended UNCSA High School, percentage of graduates who enter the UNCSA college program, percentage of graduates who enroll in a specialized performing arts school or a performing arts program at an institute of higher education.

SECTION 9.3.(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 March 1, 2011.

PERMANENT TRANSFER OF FUNDING TO ROANOKE ISLAND COMMISSION FOR PERFORMING ARTS

SECTION 9.4. Section 9.4 of S.L. 2009-451 reads as rewritten:

"**SECTION 9.4.** The General Assembly finds that in order to expand opportunities for students involved in the performing arts, existing funding for the Summer Institute on Roanoke Island should not be allocated to one specific University of North Carolina institution but instead be allocated directly to the Roanoke Island Commission, so that any interested University of North Carolina institution may have the opportunity to participate in summer arts enrichment and education programs. Therefore, of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to the Summer Institute of the University of North Carolina School of the Arts on Roanoke Island program for the 2009-2011 fiscal biennium, the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be transferred for the 2009-2010 fiscal year to the Roanoke Island Commission, and the ~~sum of four hundred sixty one thousand six hundred forty six dollars (\$461,646) shall be transferred for the 2010-2011 fiscal year to the Roanoke Island Commission.~~ recurring funds appropriated for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina and allocated to the University of North Carolina School of the Arts for the Summer Institute on Roanoke Island program, shall be

1 permanently transferred to the Department of Cultural Resources and allocated to the Roanoke
2 Island Commission. The amount to be transferred shall be equal to the amount of the
3 appropriation remaining after all reductions, prior to and included in this act, are incorporated.
4 The Roanoke Island Commission may use these funds to contract with any of the constituent
5 institutions of The University of North Carolina System to provide music and drama students
6 an education in a professional performing environment while providing a public service to the
7 State. Any available funds may be used to contract with community-based or nonprofit
8 performing arts groups or other performing arts groups supported with State or local funds to
9 provide music and drama on Roanoke Island."

10 11 **HICKORY METRO HIGHER EDUCATION CENTER MERGER**

12 **SECTION 9.5.** The Hickory Metro Higher Education Center shall be merged with
13 the North Carolina Center for Engineering and Technology. The merged entity shall be referred
14 to as the Hickory Metro Higher Education Center. The new Center shall be administered by the
15 University of North Carolina (with Appalachian State University acting as fiscal agent for the
16 Center). The new Center shall be housed at the current location of the North Carolina Center
17 for Engineering and Technology, as soon as such facilities are prepared for that purpose.

18 19 **REVIEW OF UNC SCIENCE, TECHNOLOGY, ENGINEERING AND** 20 **MATHEMATICS (STEM) PROGRAMS**

21 **SECTION 9.6.(a)** In order to assess the effectiveness of University-administered
22 Science, Technology, Engineering and Mathematics (STEM) programs, The University of
23 North Carolina General Administration shall compile a comprehensive list of programs within
24 the University system whose primary objective is to provide community outreach in the form of
25 (1) teacher professional development programs to strengthen the quality of science or
26 mathematics instruction in the public schools; or (2) K-12 student enrichment programs in the
27 areas of science, technology, engineering or mathematics. At a minimum, the following
28 programs shall be included:

- 29 (1) Pre-College and Teacher Professional Development programs administered
30 through the North Carolina Mathematics and Science Education Network
31 (NC-MSEN);
- 32 (2) Summer Ventures Program;
- 33 (3) North Carolina Central University Center for Science, Math and Technology
34 Education;
- 35 (4) Fayetteville State University CHEER Summer Bridges; and
- 36 (5) NCSTEM Community Collaborative.

37 **SECTION 9.6.(b)** The University of North Carolina General Administration shall
38 conduct an annual review of each of the identified programs and report the results to the Office
39 of State Budget and Management and the Fiscal Research Division no later than September 30
40 of each year to assist with future funding decisions. The report shall contain the following
41 information for each program:

- 42 (1) A description of the program mission, goals, and objectives.
- 43 (2) The statutory objectives for the program if applicable.
- 44 (3) Annual State appropriation and receipt funding for the program.
- 45 (4) Program effectiveness measures for Teacher Professional Development
46 programs to include at a minimum:
 - 47 a. A measure of teachers' classroom effectiveness in STEM areas
48 before and after attending a university professional development
49 program.
 - 50 b. A measure of math and science educators retained as a result of
51 attending a UNC professional development program.

- 1 (5) Program effectiveness measures for student enrichment programs to include
2 at a minimum:
- 3 a. A measure of students' expected college and career aspirations before
4 and after attending a STEM program.
 - 5 b. A measure of students' math and science performance on
6 standardized tests before and after attending a STEM program.
 - 7 c. A measure of declared STEM majors within the UNC system who
8 attended a UNC-sponsored STEM program.

9 **SECTION 9.6.(c)** The University of North Carolina General Administration shall
10 submit the list of STEM programs to the Office of State Budget and Management and the
11 Fiscal Research Division by February 15, 2011. The annual reporting requirement is effective
12 July 1, 2011.

13 **SECTION 9.6.(d)** In addition, the Department of Public Instruction shall survey
14 math and science educators in North Carolina to identify the number of current math and
15 science educators who attended a UNC sponsored Pre-College or Summer Ventures program
16 before entering college. The survey may be conducted in cooperation with ongoing data
17 collection efforts within The University of North Carolina system. The data shall be reported to
18 the Office of State Budget and Management and the Fiscal Research Division by February 15,
19 2011.

20 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

21 **SECTION 9.7.** Section 9.19 of S.L. 2009-451 reads as rewritten:

22 **"SECTION 9.19.** The management flexibility reduction for The University of North
23 Carolina shall not be allocated by the Board of Governors to the constituent institutions and
24 affiliated entities using an across-the-board method but in a manner that recognizes the
25 importance of the academic mission and differences among The University of North Carolina
26 entities. Before taking reductions in instructional budgets, the ~~The~~ Board of Governors and the
27 campuses of the constituent institutions shall consider reducing budgets for senior and middle
28 management personnel, centers and institutes, low enrollment degree programs, speaker series,
29 low-performing or redundant programs, adjustments to faculty workload, restructuring of
30 research activities, programs or positions that can be shifted to receipt-support, and
31 nonacademic activities. When implementing personnel reductions, the Board of Governors and
32 the campuses shall make every effort to abolish vacant positions first. The Board of Governors
33 and the campuses of the constituent institutions also shall review the institutional trust funds
34 and the special funds held by or on behalf of the The University of North Carolina and its
35 constituent institutions to determine whether there are monies available in those funds that can
36 be used to assist with operating costs before taking reductions in instructional budgets. In
37 addition, the campuses of the constituent institutions also shall require their faculty to have a
38 teaching workload at least equal to the national average in their Carnegie classification. Budget
39 reductions shall not be considered in funding available for need-based financial ~~aid-aid,~~ faculty
40 recruiting and retention, or the University of North Carolina School of the Arts high school
41 initiative."

42 **TRANSFER OF A+ SCHOOLS FROM UNC GREENSBORO TO DEPARTMENT OF** 43 **CULTURAL RESOURCES**

44 **SECTION 9.8.** The A+ Schools program is transferred from the University of
45 North Carolina at Greensboro to the North Carolina Arts Council in the Department of Cultural
46 Resources, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a
47 transfer. The program transfer shall include the sum of fifty-eight thousand six hundred
48 thirty-eight dollars (\$58,638).
49
50
51

SHORTFALLS IN THE STATE CONTRACTUAL SCHOLARSHIP FUND

SECTION 9.9. In the event there are not sufficient funds in the State Contractual Scholarship Fund to provide each eligible student or licensure student with a full grant at the fixed rate as determined by the General Assembly, funds appropriated under the tuition grant program as defined in G.S. 116-21.2 shall be available to meet the shortfall.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**CHILD CARE ALLOCATION FORMULA**

SECTION 10.1. Section 10.2 of S.L. 2009-451 reads as rewritten:

"SECTION 10.2.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.
- (3) The overall Smart Start child care subsidy allocation shall not be affected by a reduction in appropriations to the program. For 2010-2011, the Smart Start subsidy allocation shall not fall below the level of 2009-2010 expenditures.

"SECTION 10.2.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

"SECTION 10.2.(c) Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in federal block grant funds and State funds appropriated for fiscal years 2009-2010 and 2010-2011 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including targeted market rate adjustments given in the past, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section."

ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES

SECTION 10.2. Section 10.10 of S.L. 2009-451 reads as rewritten:

"SECTION 10.10. The Division of Child Development of the Department of Health and Human Services shall ~~increase-decrease~~ the allowance that county departments of social services may use for administrative costs from ~~four percent (4%)~~ five percent (5%) to ~~five percent (5%)~~ four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The ~~increase-decrease~~ shall be effective for the ~~2009-2010-2010-2011~~ 2010-2011 fiscal year."

NC HEALTH CHOICE ENROLLMENT

SECTION 10.3. Section 10.34 of S.L. 2009-451 reads as rewritten:

"SECTION 10.34. The Department of Health and Human Services ~~may, may expand~~ enrollment in the NC Health Choice Program for the ~~2009-2010-2010-2011~~ 2010-2011 fiscal year, ~~allow~~

1 enrollment to grow by not more than which is projected to reach 9,098–143,035
2 children:children by June 2011."
3

4 NCHC CHANGES

5 **SECTION 10.4.** Effective July 1, 2009, G.S. 108A-70.21(b) reads as rewritten:

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

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

- 13 (1) Oral examinations, teeth cleaning, and topical fluoride treatments twice
14 during a 12-month period, full mouth X-rays once every 60 months,
15 supplemental bitewing X-rays showing the back of the teeth once during a
16 12-month period, sealants, extractions, ~~other than including~~ impacted teeth
17 teeth, ~~or residual roots and symptomatic wisdom teeth,~~ therapeutic
18 pulpotomies, space maintainers, dentures and acrylic partial dentures, root
19 canal therapy for permanent anterior teeth and permanent first molars,
20 prefabricated stainless steel crowns, periodontal debridement, scaling and
21 root planning and certain periodontal surgery procedures (with limitations),
22 inhalation of nitrous oxide, and routine fillings of amalgam or other tooth
23 colored filling material to restore diseased teeth.
- 24 (1a) Orthognathic surgery or surgical exposure and bonding of impacted teeth to
25 correct functionally impairing malocclusions when orthodontics was
26 approved and initiated while the child was covered by Medicaid and the
27 need for orthognathic surgery or surgical exposure and bonding of impacted
28 teeth was documented in the orthodontic treatment plan.
- 29 (1b) Orthodontic services to children with malocclusions caused by severe
30 craniofacial anomalies such as cleft lip and/or palate, hemifacial or
31 craniofacial microsomia, Apert's syndrome, Crouzon's syndrome, Pierre
32 Robin syndrome, or Treacher-Collins syndrome, etc. The request for these
33 services must be accompanied by medical documentation indicating that the
34 preliminary diagnosis meets the specified criteria.
- 35 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass
36 lenses or contact lenses once every 12 months, routine replacement of
37 eyeglass frames once every 24 months, and optical supplies and solutions
38 when needed. ~~Optical NCHC recipients must obtain optical services,~~
39 ~~supplies, and solutions must be obtained from NCHC enrolled, licensed or~~
40 ~~certified ophthalmologists, optometrists, or optical dispensing laboratories.~~
41 opticians. In accordance with G.S. 148-134, NCHC providers must order
42 complete eyeglasses, eyeglass lenses, and ophthalmic frames through Nash
43 Optical Plant. Eyeglass lenses are limited to NCHC-approved single vision,
44 bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's
45 visual welfare. Coverage for oversized lenses and frames, designer frames,
46 photosensitive lenses, tinted contact lenses, blended lenses, progressive
47 multifocal lenses, coated lenses, and laminated lenses is limited to the
48 coverage for single vision, bifocal, trifocal, or other complex lenses provided
49 by this subsection. Eyeglass frames are limited to those NCHC-approved
50 frames made of zylonite, metal, or a combination of zylonite and metal. All
51 visual aids covered by this subsection require prior approval. Requests for

1 medically necessary complete eyeglasses, eyeglass lenses, and ophthalmic
2 frames outside of the NCHC-approved selection require prior approval.
3 Requests for medically necessary fabrication of complete eyeglasses or
4 eyeglass lenses outside of Nash Optical Plant require prior approval. Upon
5 prior approval refractions may be covered more often than once every 12
6 months.

7 (3) Hearing: Auditory diagnostic testing services and hearing aids and
8 accessories when provided by a licensed or certified audiologist,
9 otolaryngologist, or other approved hearing aid specialist. Prior approval is
10 required for hearing aids, accessories, earmolds, repairs, loaners, and rental
11 aids.

12 (4) Over the counter medications: Selected over the counter medications
13 provided the medication is covered under the State Medical Assistance Plan.
14 Coverage shall be subject to the same policies and approvals as required
15 under the Medicaid program.

16 (5) Routine diagnostic examinations and tests: annual routine diagnostic
17 examinations and tests, including x-rays, blood and blood pressure checks,
18 urine tests, tuberculosis tests, and general health check-ups that are
19 medically necessary for the maintenance and improvement of individual
20 health are covered.

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

23 The Department shall provide services to children enrolled in the NC Health Choice
24 Program through Community Care of North Carolina (CCNC) and shall pay Community Care
25 of North Carolina providers ~~for these services as allowed under Medicaid. the per member, per~~
26 month fees for the management of highly utilized services. The Department shall pay for these
27 services only if sufficient information is available to the Department for utilization
28 management of the services provided through CCNC."
29

30 NCHC ER VISIT CO-PAYMENTS

31 **SECTION 10.4A.** NC Health Choice co-pay for nonemergency ER visits for
32 children in families with income at or below one hundred fifty percent (150%) of FPL is ten
33 dollars (\$10.00). Children in families between one hundred fifty-one percent (151%) and two
34 hundred percent (200%) FPL is twenty-five dollars (\$25.00).
35

36 COMMUNITY CARE ENHANCED PRIMARY CARE MANAGEMENT SYSTEM

37 **SECTION 10.5.(a)** Section 10.36 of S.L. 2009-451 reads as rewritten:

38 ~~"SECTION 10.36.(a) Given the primary care case management foundation established by~~
39 ~~Community Care of North Carolina (CCNC), the Department shall build upon that foundation~~
40 ~~to ensure quality care and cost control of care provided to Medicaid patients.~~

41 ~~"SECTION 10.36.(b) The Department shall contract with CCNC participating physicians~~
42 ~~and local CCNC networks to manage the care of Medicaid recipients through a per member per~~
43 ~~month reimbursement.~~

44 ~~"SECTION 10.36.(c) The Department shall ensure that, through CCNC participating~~
45 ~~physicians and networks, the Department is striving to follow tenets adapted from the National~~
46 ~~Committee of Quality Assurance's (NCQA) national measures for patient centered Medical~~
47 ~~Homes Models. The Department shall consult with local CCNC networks to achieve all of the~~
48 ~~following:~~

49 (1) ~~Identify priority diseases, conditions, and patients for care management.~~

50 (2) ~~Develop, adopt, and implement protocols for consistent and effective care~~
51 ~~management of those diseases, conditions, and patients.~~

- 1 (3) Identify data elements necessary for effective delivery and management of
2 medical care and care management services.
3 (4) Develop and implement a system to measure, analyze, and report clinical
4 performance and service performance by physicians and networks.

5 "~~SECTION 10.36.(d)~~ Consistent with subdivision (1) of subsection (c) of this section, the
6 Department shall (i) identify baseline data on priority diseases, conditions, patients, and
7 populations, and on physicians and networks; (ii) identify patient, physician, and network
8 performance measures, and (iii) develop and implement data systems to gather, analyze, and
9 report on those performance measures. The Department shall begin work immediately to
10 implement this subsection.

11 "~~SECTION 10.36.(e)~~ The Department shall report to the House of Representatives
12 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
13 Committee on Health and Human Services, and the Fiscal Research Division no later than
14 December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this
15 section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a
16 report to the House of Representatives Appropriations Subcommittee on Health and Human
17 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
18 Research Division evaluating the performance of each of the 14 CCNC Networks based on the
19 performance measures adopted pursuant to subsection (d) of this section.

20 "~~SECTION 10.36.(f)~~ The Department shall conduct a Request for Proposal process to
21 solicit bids from qualified outside entities with proven experience in conducting actuarial and
22 health care studies and evaluations to annually report on the Medicaid cost savings achieved by
23 the CCNC networks during a 12-month period. Beginning ~~December 31, 2010, March 1, 2010,~~
24 and every year thereafter, the Department shall submit a report on the Medicaid cost savings
25 achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and
26 disabled, to the House of Representatives Appropriations Subcommittee on Health and Human
27 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
28 Research Division."

29 **SECTION 10.5.(b)** By October 1, 2010, the Department of Health and Human
30 Services (DHHS) and the Division of Medical Assistance (DMA) shall contract with North
31 Carolina Community Care Networks, Inc., (NCCCN, Inc.) and the 14 participating local
32 Community Care networks (CCNC) represented by NCCCN, Inc., to provide standardized
33 clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary
34 Care Management System for Medicaid enrollees.

35 The contract with NCCCN, Inc., shall build upon and expand the existing successful
36 CCNC primary care case management model to include comprehensive statewide quantitative
37 performance goals and deliverables which shall include, but are not limited to, the areas of (i)
38 service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies,
39 (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost
40 containment methodologies.

41 NCCCN, Inc., shall report quarterly to DHHS and the Office of State Budget and
42 Management (OSBM) on the development of the Enhanced Primary Care Case Management
43 System and its defined goals and deliverables as agreed upon in the contract. Effective July 1,
44 2010, NCCCN, Inc., shall begin reporting quarterly to the Secretary of DHHS, OSBM, the
45 House of Representatives Appropriations Subcommittee on Health and Human Services, the
46 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
47 Division on the progress and results of implementation of the quantitative, analytical,
48 utilization, quality, cost containment, and access goals and deliverables set out in the contract.

49 **SECTION 10.5.(c)** By July 1, 2011, DHHS and OSBM shall assess the
50 performance of NCCCN, Inc., and CCNC regarding the goals established in the contract. Based
51 on this assessment, DHHS and DMA shall expand, cancel, or alter the contract with NCCCN,

1 Inc., and CCNC by October 1, 2011. Expansion or alteration of the contract may reflect
2 refinements based on clearly identified goals and deliverables in the areas of (1) quality of care,
3 (2) participant access, (3) cost containment, and (4) service delivery.

4 **SECTION 10.5.(d)** By July 1, 2011, DHHS, DMA, and NCCCN, Inc., shall
5 finalize a comprehensive plan that establishes management methodologies including, but not
6 limited to, (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures,
7 (iv) performance incentive models where past experience indicates a benefit from financial
8 incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget
9 forecasting analytics as agreed upon by DHHS, DMA, and NCCCN, Inc. In the development of
10 these methodologies, DHHS, DMA, and NCCCN, Inc., shall consider options for shared risk.

11 DHHS and DMA shall provide assistance to NCCCN, Inc., in its endeavor to meet
12 the objectives of this provision.

13 14 **MEDICAID POLICY CHANGES**

15 **SECTION 10.6.(a)** Section 10.58(d) of S.L. 2009-451 reads as rewritten:

16 **"SECTION 10.58.(d)** Services and Payment Bases. – The Department shall spend funds
17 appropriated for Medicaid services in accordance with the following schedule of services and
18 payment bases. All services and payments are subject to the language at the end of this
19 subsection. Unless otherwise provided, services and payment bases will be as prescribed in the
20 State Plan as established by the Department of Health and Human Services and may be
21 changed with the approval of the Director of the Budget.

- 22 (1) Hospital inpatient. – Payment for hospital inpatient services will be
23 prescribed by the State Plan as established by the Department of Health and
24 Human Services.
- 25 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
26 prospective reimbursement plan as established by the Department of Health
27 and Human Services.
- 28 (3) Nursing facilities. – Nursing facilities providing services to Medicaid
29 recipients who also qualify for Medicare must be enrolled in the Medicare
30 program as a condition of participation in the Medicaid program. State
31 facilities are not subject to the requirement to enroll in the Medicare
32 program. Residents of nursing facilities who are eligible for Medicare
33 coverage of nursing facility services must be placed in a Medicare-certified
34 bed. Medicaid shall cover facility services only after the appropriate services
35 have been billed to Medicare.
- 36 (4) Physicians, certified nurse midwife services, certified registered nurse
37 anesthetists, nurse practitioners. – Fee schedules as developed by the
38 Department of Health and Human Services.
- 39 (5) Community Alternative Program, EPSDT Screens. – Payments in
40 accordance with rate schedule developed by the Department of Health and
41 Human Services.
- 42 (6) Home health and related services, durable medical equipment. – Payments
43 according to reimbursement plans developed by the Department of Health
44 and Human Services.
- 45 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 46 (8) Rural health clinical services. – Provider-based, reasonable cost,
47 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 48 (9) Family planning. – Negotiated rate for local health departments. For other
49 providers see specific services, e.g., hospitals, physicians.
- 50 (10) Independent laboratory and X-ray services. – Uniform fee schedules as
51 developed by the Department of Health and Human Services.

- 1 (11) Ambulatory surgical centers.
- 2 (12) Private duty nursing, clinic services, prepaid health plans.
- 3 (13) Intermediate care facilities for the mentally retarded.
- 4 (14) Chiropractors, ~~podiatrists, podiatrists~~ (treating individuals with diabetes or
5 vascular disease only), optometrists, dentists.
- 6 (15) Limitations on dental coverage. – Dental services shall be provided on a
7 restricted basis in accordance with criteria adopted by the Department to
8 implement this subsection. Adult dental services shall be limited to
9 emergency services only.
- 10 (16) Medicare Buy-In. – Social Security Administration premium.
- 11 (17) Ambulance services. – Uniform fee schedules as developed by the
12 Department of Health and Human Services. Public ambulance providers will
13 be reimbursed at cost.
- 14 (18) Optical supplies. – Payment for materials is made to a contractor in
15 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers
16 are negotiated fees established by the State agency based on industry
17 charges.
- 18 (19) Medicare crossover claims. – The Department shall apply Medicaid medical
19 policy to Medicare claims for dually eligible recipients. The Department
20 shall pay an amount up to the actual coinsurance or deductible or both, in
21 accordance with the State Plan, as approved by the Department of Health
22 and Human Services. The Department may disregard application of this
23 policy in cases where application of the policy would adversely affect
24 patient care.
- 25 (20) Physical therapy, occupational therapy, respiratory therapy, and speech
26 therapy. – ~~Services for adults and EPSDT-eligible children.~~ Adult physical
27 therapy, occupational therapy, respiratory therapy, and speech therapy have
28 a maximum of three visits per year. Reimbursement for these therapy
29 services is not allowed when services are provided at the same time as other
30 home care Medicaid services. Payments are to be made only to qualified
31 providers at rates negotiated by the Department of Health and Human
32 Services.
- 33 (21) Personal care services. – Payment in accordance with the State Plan
34 developed by the Department of Health and Human Services.
- 35 (22) Case management services. – Reimbursement in accordance with the
36 availability of funds to be transferred within the Department of Health and
37 Human Services.
- 38 (23) Hospice.
- 39 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for
40 reimbursement, providers must be licensed or certified by the occupational
41 licensing board or the certification authority having authority over the
42 provider's license or certification. Medically necessary prosthetics and
43 orthotics are subject to prior approval and utilization review.
- 44 (25) Health insurance premiums.
- 45 (26) Medical care/other remedial care. – Services not covered elsewhere in this
46 section include related services in schools; health professional services
47 provided outside the clinic setting to meet maternal and infant health goals;
48 and services to meet federal EPSDT mandates.
- 49 (27) Pregnancy-related services. – Covered services for pregnant women shall
50 include nutritional counseling, psychosocial counseling, and predelivery and

1 postpartum home visits by maternity care coordinators and public health
2 nurses.

3 (28) Drugs. – Reimbursements. Reimbursements shall be available for
4 prescription drugs as allowed by federal regulations plus a professional
5 services fee per month, excluding refills for the same drug or generic
6 equivalent during the same month. Payments for drugs are subject to the
7 provisions of this subdivision or in accordance with the State Plan adopted
8 by the Department of Health and Human Services, consistent with federal
9 reimbursement regulations. Payment of the professional services fee shall be
10 made in accordance with the State Plan adopted by the Department of Health
11 and Human Services, consistent with federal reimbursement regulations. The
12 professional services fee shall be five dollars and sixty cents (\$5.60) per
13 prescription for generic drugs and four dollars (\$4.00) per prescription for
14 brand-name drugs. Adjustments to the professional services fee shall be
15 established by the General Assembly. In addition to the professional services
16 fee, the Department may pay an enhanced fee for pharmacy services.

17 Limitations on quantity. – The Department of Health and Human
18 Services may establish authorizations, limitations, and reviews for specific
19 drugs, drug classes, brands, or quantities in order to manage effectively the
20 Medicaid pharmacy program, ~~except that the Department shall not impose~~
21 ~~limitations on brand-name medications for which there is a generic~~
22 ~~equivalent in cases where the prescriber has determined, at the time the drug~~
23 ~~is prescribed, that the brand-name drug is medically necessary and has~~
24 ~~written on the prescription order the phrase "medically necessary."~~program.
25 The department may require prior authorization on brand-name drugs when
26 "medically necessary" is written on the prescription.

27 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through
28 G.S. 90-85.31, or any other law to the contrary, under the Medical
29 Assistance Program (Title XIX of the Social Security Act), and except as
30 otherwise provided in this subsection for drugs listed in the narrow
31 therapeutic index, a prescription order for a drug designated by a trade or
32 brand name shall be considered to be an order for the drug by its established
33 or generic name, except when the prescriber has determined, at the time the
34 drug is prescribed, that the brand-name drug is medically necessary and has
35 written on the prescription order the phrase "medically necessary." An initial
36 prescription order for a drug listed in the narrow therapeutic drug index that
37 does not contain the phrase "medically necessary" shall be considered an
38 order for the drug by its established or generic name, except that a pharmacy
39 shall not substitute a generic or established name prescription drug for
40 subsequent brand or trade name prescription orders of the same prescription
41 drug without explicit oral or written approval of the prescriber given at the
42 time the order is filled. Generic drugs shall be dispensed at a lower cost to
43 the Medical Assistance Program rather than trade or brand-name ~~drugs.~~
44 ~~drugs unless the trade or brand-name drug can be dispensed at a lower cost~~
45 to the Medical Assistance Program. As used in this subsection, "brand name"
46 means the proprietary name the manufacturer places upon a drug product or
47 on its container, label, or wrapping at the time of packaging; and
48 "established name" has the same meaning as in section 502(e)(3) of the
49 Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

50 Prior authorization. – ~~The Department of Health and Human Services~~
51 ~~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, 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. The Department may, however, with respect to drugs to treat mental illnesses, develop guidelines and measures to ensure appropriate usage of these medications, including FDA-approved indications and dosage levels. The Department of Health and Human Services may also require retrospective clinical justification for the use of multiple psychotropic drugs for a Medicaid patient. 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.

(29) Other mental health services. – Unless otherwise covered by this section, coverage is limited to:

- a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
- b. For children eligible for EPSDT services provided by:
 1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, 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

- 1 the area mental health program or local management entity,
- 2 and
- 3 2. Institutional providers of residential services as defined by the
- 4 Division of Mental Health, Developmental Disabilities, and
- 5 Substance Abuse Services and approved by the Centers for
- 6 Medicare and Medicaid Services (CMS) for children and
- 7 Psychiatric Residential Treatment Facility services that meet
- 8 federal and State requirements as defined by the Department.
- 9 c. For Medicaid-eligible adults, services provided by licensed or
- 10 certified psychologists, licensed clinical social workers, certified
- 11 clinical nurse specialists in psychiatric mental health advanced
- 12 practice, and nurse practitioners certified as clinical nurse specialists
- 13 in psychiatric mental health advanced practice, licensed
- 14 psychological associates, licensed professional counselors, licensed
- 15 marriage and family therapists, certified clinical addictions
- 16 specialists, and licensed clinical supervisors, Medicaid-eligible adults
- 17 may be self-referred.
- 18 d. Payments made for services rendered in accordance with this
- 19 subdivision shall be to qualified providers in accordance with
- 20 approved policies and the State Plan. Nothing in sub-subdivision b.
- 21 or c. of this subdivision shall be interpreted to modify the scope of
- 22 practice of any service provider, practitioner, or licensee, nor to
- 23 modify or attenuate any collaboration or supervision requirement
- 24 related to the professional activities of any service provider,
- 25 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this
- 26 subdivision shall be interpreted to require any private health insurer
- 27 or health plan to make direct third-party reimbursements or payments
- 28 to any service provider, practitioner, or licensee.

29 Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human
 30 Services may adopt temporary rules in accordance with Chapter 150B of the
 31 General Statutes further defining the qualifications of providers and referral
 32 procedures in order to implement this subdivision. Coverage policy for
 33 services defined by the Division of Mental Health, Developmental
 34 Disabilities, and Substance Abuse Services under sub-subdivisions a. and
 35 b.2. of this subdivision shall be established by the Division of Medical
 36 Assistance.

37 (30) Experimental or trial procedures. – Any procedure not recognized or
 38 approved by a nationally recognized professional specialty organization is
 39 not approved.

40 (31) Medicaid as secondary payer claims. – The Department shall apply
 41 Medicaid medical policy to recipients who have primary insurance other
 42 than Medicare, Medicare Advantage, and Medicaid. The Department shall
 43 pay an amount up to the actual coinsurance or deductible or both, in
 44 accordance with the State Plan, as approved by the Department of Health
 45 and Human Services. The Department may disregard application of this
 46 policy in cases where application of the policy would adversely affect
 47 patient care."

48 **SECTION 10.6.(b)** Section 10.58(e) of S.L. 2009-451 reads as rewritten:

49 **"SECTION 10.58.(e)** Provider Performance Bonds and Visits. –

- 50 (1) Subject to the provisions of this subdivision, the Department may require
- 51 Medicaid-enrolled providers to purchase a performance bond in an amount

1 not to exceed one hundred thousand dollars (\$100,000) naming as
2 beneficiary the Department of Health and Human Services, Division of
3 Medical Assistance, or provide to the Department a validly executed letter of
4 credit or other financial instrument issued by a financial institution or agency
5 honoring a demand for payment in an equivalent amount. The Department
6 may require the purchase of a performance bond or the submission of an
7 executed letter of credit or financial instrument as a condition of initial
8 enrollment, reenrollment, or reinstatement if:

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

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

16 (1a) The Department may waive or limit the requirements of this paragraph for
17 individual Medicaid-enrolled providers or for one or more classes of
18 Medicaid-enrolled providers based on the following:

- 19 a. The provider's or provider class's dollar amount of monthly billings
20 to Medicaid.
- 21 b. The length of time an individual provider has been licensed,
22 endorsed, certified, or accredited in this State to provide services.
- 23 c. The length of time an individual provider has been enrolled to
24 provide Medicaid services in this State.
- 25 d. The provider's demonstrated ability to ensure adequate record
26 keeping, staffing, and services.
- 27 e. The need to ensure adequate access to care.

28 In waiving or limiting requirements of this paragraph, the Department shall
29 take into consideration the potential fiscal impact of the waiver or limitation
30 on the State Medicaid Program. The Department shall provide to the affected
31 provider written notice of the findings upon which its action is based and
32 shall include the performance bond requirements and the conditions under
33 which a waiver or limitation apply. The Department may adopt temporary
34 rules in accordance with G.S. 150B-21.1 as necessary to implement this
35 provision.

36 (2) Reimbursement is available for up to 30 visits per recipient per fiscal year
37 for the following professional services: ~~hospital-outpatient providers,~~
38 physicians, nurse practitioners, nurse midwives, clinics, health departments,
39 optometrists, chiropractors, and podiatrists. The Department of Health and
40 Human Services shall adopt medical policies in accordance with
41 G.S. 108A-54.2 to distribute the allowable number of visits for each service
42 or each group of services consistent with federal law. In addition, the
43 Department shall establish a threshold of some number of visits for these
44 services. The Department shall ensure that primary care providers or the
45 appropriate CCNC network are notified when a patient is nearing the
46 established threshold to facilitate care coordination and intervention as
47 needed.

48 Prenatal services, all EPSDT children, emergency room visits, and
49 mental health visits subject to independent utilization review are exempt
50 from the visit limitations contained in this subdivision. Subject to
51 appropriate medical review, the Department may authorize exceptions when

1 additional care is medically necessary. Routine or maintenance visits above
2 the established visit limit will not be covered unless necessary to actively
3 manage a life threatening disorder or as an alternative to more costly care
4 options."
5

6 **MEDICAID PREFERRED DRUG LIST**

7 **SECTION 10.7.** Section 10.66(c) of S.L. 2009-451 reads as rewritten:

8 "**SECTION 10.66.(c)** The Department, in consultation with the PAG, shall adopt and
9 publish policies and procedures relating to the preferred drug list, including:

- 10 (1) Guidelines for the presentation and review of drugs for inclusion on the
11 preferred drug list,
- 12 (2) The manner and frequency of audits of the preferred drug list for
13 appropriateness of patient care and cost-effectiveness,
- 14 (3) An appeals process for the resolution of disputes, and
- 15 (4) Such other policies and procedures as the Department deems necessary and
16 appropriate.

17 The Department and the pharmaceutical and therapeutics committee shall consider
18 all therapeutic classes of prescription drugs for inclusion on the preferred drug list, ~~except~~
19 ~~medications for treatment of human immunodeficiency virus or acquired immune deficiency~~
20 ~~syndrome shall not be subject to consideration for inclusion on the preferred drug list.~~

21 The Department shall maintain an updated preferred drug list in electronic format
22 and shall make the list available to the public on the Department's Internet Web site.

23 The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate
24 directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for
25 negotiated discounts or rebates for all prescription drugs under the medical assistance program;
26 or (iv) effectuate any combination of these options in order to achieve the lowest available
27 price for such drugs under such program.

28 The Department may negotiate supplemental rebates from manufacturers that are in
29 addition to those required by Title XIX of the federal Social Security Act. The committee shall
30 consider a product for inclusion on the preferred drug list if the manufacturer provides a
31 supplemental rebate. The Department may procure a sole source contract with an outside entity
32 or contractor to conduct negotiations for supplemental rebates."
33

34 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

35 **SECTION 10.7A.** Section 10.64(b) of S.L. 2009-451 reads as rewritten:

36 "**SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and Human
37 Services shall deposit from its revenues one hundred twenty-four million nine hundred
38 ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of
39 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the
40 Department of Health and Human Services shall deposit from its revenues ~~one hundred million~~
41 ~~dollars (\$100,000,000) one hundred thirty-five million dollars (\$135,000,000)~~ with the
42 Department of State Treasurer to be accounted for as nontax revenue. These deposits shall
43 represent the return of General Fund appropriations provided to the Department of Health and
44 Human Services to provide indigent care services at State-owned and operated mental
45 hospitals. The treatment of any revenue derived from federal programs shall be in accordance
46 with the requirements specified in the Code of Federal Regulations, Volume 2, Part 225."
47

48 **AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN** 49 **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN** 50 **THE MEDICAID PROGRAM**

51 **SECTION 10.8.(a)** Section 10.68A(a) of S.L. 2009-451 reads as rewritten:

1 "SECTION 10.68A.(a) For the purpose of enabling the Department of Health and Human
2 Services, Division of Medical Assistance, to achieve the budget reductions enacted in this act
3 for the Medicaid program, the Department may take the following actions, notwithstanding any
4 other provision of this act or other State law or rule to the contrary and subject to the
5 requirements of subsection (e) of this section:

6 ...
7 (3) ~~Medicaid Personal Care Service provision. Upon the enactment of this act,~~
8 ~~the Division of Medical Assistance shall implement the following new~~
9 ~~criteria for personal care services (PCS):~~

- 10 a. ~~Independent assessment by an entity that does not provide direct PCS~~
11 ~~services for evaluation of the recipient prior to initiation of service.~~
12 ~~The independent assessment will determine the qualifying Activities~~
13 ~~of Daily Living (ADL), the level of assistance required, and the~~
14 ~~amount and scope of PCS to be provided, according to policy~~
15 ~~criteria.~~
16 b. ~~Independent assessment or review from the assigned Community~~
17 ~~Care of North Carolina (CCNC) physician of the continued~~
18 ~~qualification for PCS services under the revised PCS policy criteria.~~
19 e. ~~Establishment of time limits on physician service orders and~~
20 ~~reauthorization in accordance with the recipient's diagnosis and~~
21 ~~acuity of need.~~
22 d. ~~Add the following items to the list of tasks that are not covered by~~
23 ~~this service: nonmedical transportation, errands and shopping, money~~
24 ~~management, cueing, and prompting, guiding, or coaching.~~
25 e. ~~Online physician attestation of medical necessity.~~
26 f. ~~If sufficient reduction in cost is not achieved with the revised policy,~~
27 ~~the Secretary shall direct the Division of Medical Assistance to~~
28 ~~further modify the policy to achieve targeted cost savings.~~

29 ~~Recipients currently receiving PCS services shall be reviewed under the~~
30 ~~above criteria, and those recipients not meeting the new criteria shall be~~
31 ~~terminated from the service within 30 days of the review. The Department~~
32 ~~shall review usage of personal care services in adult care homes to determine~~
33 ~~if overuse is occurring and shall report its findings to the House of~~
34 ~~Representatives Appropriations Subcommittee on Health and Human~~
35 ~~Services, the Senate Appropriations Committee on Health and Human~~
36 ~~Services, and the Fiscal Research Division on or before December 1, 2009.~~

37 (3) Medicaid Personal Care Service Provision. – The Department of Health and
38 Human Services, Division of Medical Assistance, shall affect the reform of
39 the Personal Care Services (PCS) and Personal Care Services-Plus
40 (PCS-Plus) programs provided under the State Medicaid Plan as follows:

- 41 a. Terminate all services provided under these two PCS programs and
42 implement two new PCS programs, PCS-C and PCS-ADE effective
43 on January 1, 2011, or when approval is received from CMS.
44 b. Determine the most effective and efficient means for Medicaid to
45 manage the cost, quality, and utilization of personal care services
46 through one of the available funding options, including revised
47 Medicaid plan optional services, a §1915(c) home and
48 community-based services (HCBS) waiver, or through a §1915(i)
49 option that allows states to establish home and community-based
50 services that can target specific populations.

- 1 c. Submit to CMS applications or State plan amendments as required to
2 obtain approval for two PCS programs as follows:
- 3 1. PCS for Children (PCS-C) to assist families to meet their
4 needs for personal care assistance for children, including
5 individuals under the age of 21 receiving comprehensive and
6 preventive child health services through the Early and
7 Periodic Screening, Diagnosis, and Treatment (EPSDT)
8 program.
- 9 2. PCS for Disabled and Elderly (PCS-ADE) to meet the needs
10 of individuals 21 years of age or older who, because of a
11 medical condition, disability, or cognitive impairment,
12 demonstrate extensive or higher levels of unmet needs for
13 assistance in at least three of the five activities of daily living
14 (ADLs) that include eating, dressing, bathing, toileting, and
15 mobility. PCS-ADE shall target individuals at the highest
16 level of need who are able to safely remain in the home and
17 who do not meet the State's criteria for nursing facility
18 placement.
- 19 d. Establish program limitations:
- 20 1. PCS for Children shall be limited to 60 hours of service per
21 month, unless additional services are required to correct or
22 ameliorate defects and physical and mental illnesses and
23 conditions as defined in 42 U.S.C. § 1396d(r)(5) in
24 accordance with a plan of care approved by DMA or its
25 designee.
- 26 2. PCS for Disabled and Elderly up to 80 hours of service per
27 month in accordance with a plan of care approved by DMA
28 or its designee.
- 29 e. For both programs, require that:
- 30 1. Services are provided in a manner that supplements not
31 supplants family roles and responsibilities and care provided
32 by informal caregivers.
- 33 2. Prior to admission to PCS, the recipient be seen by his or her
34 primary or attending physician and that the recipient's
35 physician authorizes referral for PCS in writing and attests to
36 the medical necessity for PCS. The Department of Health and
37 Human Services shall track and analyze from the written
38 referrals to detect and address overutilization of PCS services.
- 39 3. Initial assessments and continuing need reassessments be
40 performed by an Independent Assessment Entity (IAE) that is
41 not a PCS service provider.
- 42 4. The IAE authorize the amount of service to be provided on a
43 "needs basis," as determined by each recipient's degree of
44 functional disability and level of unmet needs for hands-on
45 personal assistance in the five qualifying ADLs.
- 46 5. PCS shall not be used to perform household chores not
47 directly related to the qualifying ADLs, nonmedical
48 transportation, money management, running errands and
49 shopping, and nonhands-on assistance such as cueing,
50 prompting, guiding, or coaching in accordance with the
51 Medicaid Clinical Coverage Policy for each program.

1 currently receiving PDN to waiver services provided under the
2 Technology Dependent Waiver."

3 **SECTION 10.8.(b)** Section 10.68A(c) of S.L 2009-451 reads as rewritten:

4 **"SECTION 10.68A.(c)** At least 30 days prior to the adoption of new or amended medical
5 coverage policies necessitated by the reductions to the Medicaid program enacted in this act,
6 the Department shall:

- 7 (1) Publish the proposed new or amended medical coverage policies via the
8 Medicaid Bulletin published on the Department's Web site, which shall
9 include an invitation to readers to send written comments on the proposed
10 new or amended policies to the Department's mailing address, including
11 e-mail.
12 (2) Notify via direct mail the members of the Physician Advisory Group (PAG)
13 of the proposed policies.
14 (3) Update the policies published on the Web site to reflect any changes made as
15 a result of written comments received from the PAG and others.
16 (4) ~~Provide~~ At least 10 days prior to the adoption of new or amended medical
17 coverage policies, the Department shall provide written notice to recipients
18 about changes in policy."
19

20 **SPECIALTY DRUG PROVIDER NETWORK**

21 **SECTION 10.9.** The Department of Health and Human Services shall create a
22 specialty drug provider network that requires best practices, prevents overutilization and allows
23 for drug reimbursement rate negotiations for hemophilia, hepatitis C, and IVIG drugs.
24

25 **MEDICAID WAIVER FOR ASSISTED LIVING**

26 **SECTION 10.10.** The Division of Medical Assistance shall develop and
27 implement a 1915(c) Home and Community Based Services assisted living waiver in order to
28 continue Medicaid funding of personal care services to individuals in adult care homes. All
29 adult care home residents who receive State-County Special Assistance and meet the criteria
30 for nursing facility level of care will be eligible for participation in the waiver. Waiver services
31 will be delivered according to the acuity level of adult care home residents. The Division of
32 Medical Assistance shall develop a new Medicaid payment methodology for waiver services
33 that is associated with the acuity-based service delivery model. Implementation of the assisted
34 living waiver is contingent upon approval by the Centers for Medicare and Medicaid Services.
35

36 **STATEWIDE EXPANSION OF CAPITATED 1915(b)/(c) BEHAVIORAL HEALTH** 37 **WAIVERS**

38 **SECTION 10.11.** The Division of Medical Assistance shall initiate statewide
39 expansion of the capitated 1915(b)/(c) waivers which have been operating in the Piedmont
40 Behavioral Healthcare (PBH) LME as a demonstration program since April 2005. Additional
41 LMEs shall be added to the waiver program as they demonstrate readiness to participate
42 through a request for proposal process. The waiver program shall include all Medicaid-covered
43 mental health, developmental disabilities, and substance abuse services. Expansion of the
44 waiver to additional LMEs shall be contingent upon approval by the Centers for Medicare and
45 Medicaid Services.
46

47 **STUDY MEDICAID PROVIDER RATES**

48 **SECTION 10.13.(a)** The Department of Health and Human Services, Division of
49 Medical Assistance, shall initiate a study or contract out for a study of reimbursement rates for
50 Medicaid providers and program benefits. The study shall provide: (i) a comparison of
51 Medicaid reimbursement rates in NC, its surrounding states, and two additional states, and (ii) a

1 comparison of NC's Medicaid program benefits with our surrounding states and two additional
2 states. Selected provider rates shall be studied for the initial report.

3 **SECTION 10.13.(b)** The Department shall report its initial findings to the
4 Governor, the Senate Appropriations Committee on Health and Human Services, the House of
5 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal
6 Research Division by April 1, 2011.

7 **SECTION 10.13.(c)** Funds appropriated to the Department of Health and Human
8 Services may be used to complete this study.

9 10 **MEDICAID PREFERRED DRUG LIST (PDL) POLICY REVIEW PANEL**

11 **SECTION 10.14.(a)** The Secretary of the Department of Health and Human
12 Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days of
13 enactment of this bill. The purpose of the PDL Policy Review Panel is to review the Medicaid
14 PDL recommendations from the Department of Health and Human Services, Division of
15 Medical Assistance and the Physician Advisory Group (PAG) Pharmacy and Therapeutics
16 (P&T) Committee.

17 **SECTION 10.14.(b)** The Secretary shall appoint the following individuals to the
18 review panel:

- 19 (1) The Division of Medical Assistance Director of Pharmacy;
- 20 (2) A representative from PAG's P&T Committee;
- 21 (3) A representative from the Old North State Medical Society;
- 22 (4) A representative from the NC Association of Pharmacist;
- 23 (5) A representative from Community Care of North Carolina; and
- 24 (6) A representative from the NC Psychiatric Association.

25 Each representative, excluding the Division's Director of Pharmacy, shall have
26 two-year appointments.

27 **SECTION 10.14.(c)** After the recommended policies related to the Medicaid PDL
28 are posted, about 30 days after the posting, the review panel shall have an open meeting to
29 review the recommendation from the PAG P&T Committee along with written public comment
30 received as a result of the posting. In addition, the review panel shall provide an opportunity for
31 public comment at the meeting. The review panel will then make policy recommendations to
32 the Division.

33 34 **MEDICAID FRAUD PREVENTION**

35 **SECTION 10.15.(a)** The General Assembly finds that Medicaid fraud costs the
36 State an inordinate amount of money and preventing the fraud before it occurs is in the best
37 interests of the State. The Department of Health and Human Services is authorized to create a
38 fraud prevention program that uses information from State and private databases to develop a
39 fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent
40 fraud before it takes place and to achieve cost avoidance savings. While it is the intent that this
41 initiative allow broad new access to information and databases across State government, the
42 plan shall comply with all necessary security measures and restrictions to ensure that access to
43 any specific information held confidential under federal and State law shall be limited to
44 authorized persons.

45 **SECTION 10.15.(b)** Notwithstanding any other provision of law to the contrary,
46 the Department may propose to modify or extend existing contracts or as necessary propose
47 sole source contracts to timely achieve the Medicaid fraud prevention savings. Any such
48 modifications or contract extensions or sole source contracts proposed by the Department must
49 be reviewed and approved by the Secretary of the Department of Administration and reported
50 to the Senate Appropriations Committee on Health and Human Services, the House of

1 Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal
2 Research Division, and the Office of State Budget and Management.

3 **SECTION 10.15.(c)** The Department shall report on the activities conducted under
4 this section to the House Appropriations Subcommittee on Health and Human Services, the
5 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
6 Division on or before April 1, 2011.

7 **SECTION 10.15.(d)** This authority expires one year from enactment of this bill.

8 9 **COMMUNITY HEALTH CENTER CHANGES**

10 **SECTION 10.16.** Section 10.37 of S.L. 2009-451 reads as rewritten:

11 "**SECTION 10.37.** Of the funds appropriated in this act for Community Health Grants, ~~the~~
12 ~~sum of six million eight hundred sixty thousand dollars (\$6,860,000) in recurring funds for the~~
13 ~~2009-2010 fiscal year and the sum of five million eight hundred nine thousand two hundred~~
14 ~~twenty-five dollars (\$5,809,225)~~six million eight hundred sixty thousand dollars (\$6,860,000)
15 for the 2010-2011 fiscal year shall be allocated as grants on a competitive basis to rural health
16 centers, free clinics, public health departments, school-based health centers, federally qualified
17 health centers, and other nonprofit organizations that provide primary medical and dental care,
18 behavioral health, and preventive health services to uninsured and indigent persons."

19 20 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 21 **FUNDS/IMPLEMENTATION OF MMIS**

22 **SECTION 10.17.** Section 10.41 of S.L. 2009-451 is rewritten as follows:

23 "**SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of Health and
24 Human Services (Department), the sum of ~~ten million seven hundred sixty five thousand one~~
25 ~~hundred fifty-three dollars (\$10,765,153) for fiscal year 2009-2010 and eleven million seven~~
26 ~~hundred thirty-seven thousand four hundred fourteen dollars (\$11,737,414) the sum of eight~~
27 ~~million sixty-four thousand one hundred twenty-eight dollars (\$8,064,128) for fiscal year~~
28 2010-2011 shall be (i) deposited to the Department's information technology budget code and
29 (ii) used to match federal funds for the procurement, design, development, and implementation
30 of the new Medicaid Management Information System (MMIS) and to fund the central
31 management of the project. The Department shall utilize all prior year earned revenues received
32 for the MMIS. In the event that the Department does not receive prior year earned revenues in
33 the amounts authorized by this section, the Department is authorized, with approval of the
34 Office of State Budget and Management, to utilize other overrealized receipts and funds
35 appropriated to the Department to achieve the level of funding specified in this section for the
36 MMIS.

37 "**SECTION 10.41.(b)** The Department shall make full development of the replacement
38 MMIS a top priority. During the development and implementation of MMIS, the Department
39 shall develop plans to ensure the timely and effective implementation of enhancements to the
40 system to provide the following capabilities:

41 (1) Receiving and tracking premiums or other payments required by law.

42 (2) Compatibility with the administration of the Health Information System.

43 The Department shall make every effort to expedite the implementation of the
44 enhancements. The Office of Information Technology Services shall work in cooperation with
45 the Department to ensure the timely and effective implementation of the MMIS and
46 enhancements. The contract between the Department and the contract vendor shall contain an
47 explicit provision requiring that the MMIS have the capability to fully implement the
48 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the
49 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid
50 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must
51 have detailed cost information for each requirement before signing the contract. Any contract

1 between the Department and a vendor for the MMIS that does not contain the explicit provision
2 required under this subsection is void on its face. Notwithstanding any other provision of law to
3 the contrary, the Secretary of the Department does not have the authority to sign a contract for
4 the MMIS if the contract does not contain the explicit provision required under this section.

5 **"SECTION 10.41.(c)** Notwithstanding G.S. 114-2.3, the Department shall engage the
6 services of private counsel with the pertinent information technology and computer law
7 expertise to review requests for proposals and to negotiate and review contracts associated with
8 MMIS. The counsel engaged by the Department shall review the MMIS contract between the
9 Department and the vendor to ensure that the requirements of subsection (a) of this section are
10 met in their entirety.

11 **"SECTION 10.41.(d)** The Department shall develop a comprehensive schedule for the
12 development and implementation of the MMIS that fully incorporates federal and State project
13 management and review requirements. The Department shall ensure that the schedule is as
14 accurate as possible. Any changes to the design, development, and implementation schedule
15 shall be reported as part of the Department's quarterly MMIS reporting requirements. The
16 Department shall submit the schedule to the Chairs of the House of Representatives Committee
17 on Appropriations and the House of Representatives Subcommittee on Health and Human
18 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations
19 Committee on Health and Human Services, and the Fiscal Research Division. Any change to
20 key milestones in either schedule shall be immediately reported to the Chairs of the House of
21 Representatives Committee on Appropriations and the House of Representatives Subcommittee
22 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the
23 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
24 Division with a full explanation of the reason for the change.

25 **"SECTION 10.41.(e)** Beginning July 1, 2009, the Department shall make quarterly reports
26 on changes in the functionality and projected costs of the MMIS. The first quarterly submission
27 shall contain a final report on the contract award to include total costs and functionality of the
28 MMIS. Each report shall be made to the Chairs of the House of Representatives Committee on
29 Appropriations and the House of Representatives Subcommittee on Health and Human
30 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations
31 Committee on Health and Human Services, and the Fiscal Research Division. A copy of the
32 final report on the contract award also shall be submitted to the Joint Legislative Commission
33 on Governmental Operations.

34 **"SECTION 10.41.(f)** Upon initiation of the NC MMIS Program Reporting and Analytics
35 Project and the Division of Health Services Regulation Project, the Department shall submit all
36 reports regarding functionality, schedule, and cost in the next regular cycle of reporting
37 identified in subsections (d) and (e) of this section. The Department shall ensure that the
38 solution developed in the Reporting and Analytics Project supports the capability, in its initial
39 implementation, to interface with the North Carolina Teachers' and State Employees' Health
40 Plan. The costs for this capability shall be negotiated prior to the award of the Reporting and
41 Analytics Project contract. The Reporting and Analytics Project solution must be completed
42 simultaneously with the replacement MMIS."
43

44 **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

45 **SECTION 10.18.** Section 10.46A of S.L. 2009-451 reads as rewritten:

46 **"SECTION 10.46A.(a)** G.S. 110-141 reads as rewritten:

47 **"§ 110-141. Effectuation of Intent of Article.**

48 The North Carolina Department of Health and Human Services shall supervise the
49 administration of the program in accordance with federal law and shall cause the provisions of
50 this Article to be effectuated and to secure child support from absent, deserting, abandoning
51 and non-supporting parents.

1 Effective July 1, 2010, each child support enforcement program being administered by the
2 Department of Health and Human Services on behalf of counties shall be administered, or the
3 administration provided for, by the board of county commissioners of those counties. Until July
4 1, 2010, it shall be the responsibility of the Department of Health and Human Services to
5 administer or provide for the administration of the program in those counties.

6 A county may negotiate alternative arrangements to the procedure outlined in G.S. 110-130
7 for designating a local person or agency to administer the provisions of this Article in that
8 county."

9 **"SECTION 10.46A.(b)** Counties affected by this section shall submit plans to the
10 Department of Health and Human Services, Division of Social Services, no later than January
11 1, 2010, outlining the proposed operation of child support enforcement programs. The Division
12 shall establish the criteria to be included within county plans for operations and review
13 submitted plans to ensure the appropriate transitioning of administrative and programmatic
14 responsibility.

15 **"SECTION 10.46A.(c)** Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary
16 of Department of Health and Human Services may transfer at no cost to county governments or
17 the Eastern Band of the Cherokee Indians for the sole purpose of facilitating their
18 administration of the child support program no later than July 1, 2010, State-owned equipment,
19 including, but not limited to, computers, printers, and furniture that is being used by
20 State-operated child support offices to administer the program. The county government or the
21 Eastern Band of the Cherokee Indians assuming responsibility for the child support program
22 effective July 1, 2010, shall identify from the existing equipment and office furnishing which
23 items their agency will need to administer the child support program. A comprehensive list of
24 items to be transferred shall be compiled and signed by the manager of the State-operated child
25 support office and the manager of the county or tribal child support office, and the list will
26 serve as official documentation of the transfer. Copies of such documentation shall be provided
27 to the DHHS Controller's Office and the Department of Administration."

29 TANF BENEFIT IMPLEMENTATION

30 **SECTION 10.19.** Section 10.51 of S.L. 2009-451 reads as rewritten:

31 **"SECTION 10.51.(a)** The General Assembly approves the plan titled "North Carolina
32 Temporary Assistance for Needy Families State Plan FY-~~2009-2011~~2010-2012," prepared by
33 the Department of Health and Human Services and presented to the General Assembly. The
34 North Carolina Temporary Assistance for Needy Families State Plan covers the period October
35 1, ~~2009~~2010, through September 30, ~~2011~~2012. The Department shall submit the State Plan, as
36 revised in accordance with subsection (b) of this section, to the United States Department of
37 Health and Human Services, as amended by this act or any other act of the 2009 General
38 Assembly.

39 **"SECTION 10.51.(b)** The counties approved as Electing Counties in the North Carolina
40 Temporary Assistance for Needy Families State Plan FY-~~2009-2011~~2010-2012, as approved by
41 this section are: Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

42 **"SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as an Electing
43 County or to be redesignated as an Electing County and the accompanying county plan for
44 fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the Electing
45 County budget requirements effective July 1, 2009. For programmatic purposes, all counties
46 referred to in this subsection shall remain under their current county designation through
47 September 30, ~~2009~~2012.

48 **"SECTION 10.51.(d)** ~~For the 2009-2010 fiscal year, Electing Counties shall be held~~
49 ~~harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year,~~
50 ~~provided that remaining funds allocated for Work First Family Assistance and Work First~~

1 Diversion Assistance are sufficient for payments made by the Department on behalf of
2 Standard Counties pursuant to G.S. 108-27.11(b).

3 ~~"SECTION 10.51.(e) In the event that Departmental projections of Work First Family
4 Assistance and Work First Diversion Assistance for the 2009-2010 fiscal year indicate that
5 remaining funds are insufficient for Work First Family Assistance and Work First Diversion
6 Assistance payments to be made on behalf of Standard Counties, the Department is authorized
7 to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in
8 excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in
9 Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of
10 State Budget and Management. If the Department adjusts the allocation set forth in subsection
11 (d) of this section, then a report shall be made to the Joint Legislative Commission on
12 Governmental Operations, the House of Representatives Appropriations Subcommittee on
13 Health and Human Services, the Senate Appropriations Committee on Health and Human
14 Services, and the Fiscal Research Division."~~

15 16 **JAILS AND DETENTION PROGRAM RECEIPT-SUPPORTED**

17 **SECTION 10.20.** G.S. 153A-222 reads as rewritten:

18 **"§ 153A-222. Inspections of local confinement facilities.**

19 Department personnel shall visit and inspect each local confinement facility at least
20 semiannually. The Department shall charge each local confinement facility a nonrefundable
21 annual inspection fee of four hundred twenty dollars (\$420.00) plus a nonrefundable annual
22 per-bed fee of seventeen dollars and fifty cents (\$17.50). Assessed fees shall be as of July 1 of
23 each year and shall be based on the number of local confinement facilities and beds in
24 operation on the date due. The purpose of the inspections is to investigate the conditions of
25 confinement, the treatment of prisoners, the maintenance of entry level employment standards
26 for jailers and supervisory and administrative personnel of local confinement facilities as
27 provided for in G.S. 153A-216(4), and to determine whether the facilities meet the minimum
28 standards published pursuant to G.S. 153A-221. The inspector shall make a written report of
29 each inspection and submit it within 30 days after the day the inspection is completed to the
30 governing body and other local officials responsible for the facility. The report shall specify
31 each way in which the facility does not meet the minimum standards. The governing body shall
32 consider the report at its first regular meeting after receipt of the report and shall promptly
33 initiate any action necessary to bring the facility into conformity with the standards.
34 Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the
35 confidentiality of communications between physician and patient, the representatives of the
36 Department of Health and Human Services who make these inspections may review any
37 writing or other record in any recording medium which pertains to the admission, discharge,
38 medication, treatment, medical condition, or history of persons who are or have been inmates
39 of the facility being inspected. Physicians, psychologists, psychiatrists, nurses, and anyone else
40 involved in giving treatment at or through a facility who may be interviewed by representatives
41 of the Department may disclose to these representatives information related to an inquiry,
42 notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule
43 of law; provided the patient, resident or client has not made written objection to such
44 disclosure. The facility, its employees, and any person interviewed during these inspections
45 shall be immune from liability for damages resulting from the disclosure of any information to
46 the Department. Any confidential or privileged information received from review of records or
47 interviews shall be kept confidential by the Department and not disclosed without written
48 authorization of the inmate or legal representative, or unless disclosure is ordered by a court of
49 competent jurisdiction. The Department shall institute appropriate policies and procedures to
50 ensure that this information shall not be disclosed without authorization or court order. The
51 Department shall not disclose the name of anyone who has furnished information concerning a

1 facility without the consent of that person. Neither the names of persons furnishing information
2 nor any confidential or privileged information obtained from records or interviews shall be
3 considered "public records" within the meaning of G.S. 132-1. Prior to releasing any
4 information or allowing any inspections referred to in this section the patient, resident or client
5 must be advised in writing that he has the right to object in writing to such release of
6 information or review of his records and that by an objection in writing he may prohibit the
7 inspection or release of his records."
8

9 **SENIOR SERVICES: PROJECT C.A.R.E. (CAREGIVER ALTERNATIVES TO**
10 **RUNNING ON EMPTY)**

11 **SECTION 10.21.(a)** The sum of one million dollars (\$1,000,000) is appropriated
12 to the Department of Health and Human Services, Division of Aging and Adult Services, for
13 the 2010-2011 fiscal year and thereafter to be used to offer Project C.A.R.E. (Caregiver
14 Alternatives to Running on Empty) statewide. Project C.A.R.E. is established to assist
15 caregivers of people with Alzheimer's disease and other dementia.

16 **SECTION 10.21.(b)** Project C.A.R.E. services may include:

- 17 (1) access to a family consultant with expertise in dementia care who can
18 provide an in-home needs assessment, counseling, and information;
- 19 (2) funds and assistance in securing respite and support services through
20 in-home personal care, adult day services, group respite, and overnight
21 residential respite; and
- 22 (3) linkage to training, educational resources, and other assistance as needed.

23 **SECTION 10.21.(c)** Basic requirements for receiving assistance under Project
24 C.A.R.E. include:

- 25 (1) confirmation of Alzheimer's disease or other types of dementia; and
- 26 (2) residence in North Carolina.

27 **SECTION 10.21.(d)** There are no age restrictions for the person with dementia or
28 for the family caregiver.

29 **SECTION 10.21.(e)** While there are no income restrictions, the Division of Aging
30 and Adult Services will give priority to persons with social and economic needs as defined in
31 the federal Older Americans Act, and the Division will institute a fee schedule and process to
32 help cover the cost of providing services and support expansion of these services.

33 **SECTION 10.21.(f)** Funding for the Division of Aging and Adult Services to
34 administer this program shall not exceed the percentage allowed for administration as provided
35 in the federal Older Americans Act.

36 **SECTION 10.21.(g)** The sum of two hundred thousand dollars (\$200,000)
37 appropriated to the Department of Health and Human Services, Division of Aging and Adult
38 Services, for the 2010-2011 fiscal year and thereafter shall be used to support
39 Alzheimer's-related activities consistent with the goals of Project C.A.R.E. The Division of
40 Aging and Adult Services will develop and implement an annual plan for use of these funds
41 and report on their use to the Governor's Advisory Council on Aging and the Study
42 Commission on Aging.
43

44 **UNIVERSAL CHILDHOOD VACCINE PROGRAM**

45 **SECTION 10.21A.** The Department of Health and Human Services shall negotiate
46 with insurance companies in the State their voluntary participation in creating the Universal
47 Vaccines for Children Program. The program shall include a Childhood Immunization Account
48 to assist with the purchase, storage, distribution, and quality assurance of childhood vaccines
49 approved by the Centers for Disease Control and Prevention (CDC). Insurance companies will
50 contribute the resources necessary to support the operation of the program, including the
51 CDC-recommended vaccinations of children enrolled in their plans. The Department of Health

1 and Human Services and the Department of Insurance shall work collaboratively to implement
 2 the Childhood Immunization Account. Local health directors shall continue to enforce
 3 immunization requirements as provided by Part 2 of Article 6 of Chapter 130A of the General
 4 Statutes.

5 In the event voluntary participation cannot be negotiated, on October 1, 2010, the Secretary
 6 of the Department of Health and Human Services shall implement mandatory assessments to
 7 require insurance companies to financially support the vaccination of children enrolled in their
 8 plans. Such assessments to cover the full cost of the program shall be made to each insurance
 9 company consistent with the proportion of covered lives by each company within North
 10 Carolina to the total number of covered lives in North Carolina.

11 **DHHS BLOCK GRANTS**

12 **SECTION 10.22.(a)** Appropriations from federal block grant funds are made for
 13 the fiscal year ending June 30, 2011, according to the following schedule:
 14

15 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES** 16 **(TANF) BLOCK GRANT**

17 **Local Program Expenditures**

18 **Division of Social Services**

| | | | | |
|----|-----|------------------------------|---|------------|
| 19 | 01. | Work First Family Assistance | \$87,827,996 | |
| 20 | 21 | 02. | Work First County Block Grants | 94,453,315 |
| 21 | 22 | 03. | Child Protective Services – Child Welfare Workers for Local DSS | 14,452,391 |
| 22 | 23 | 04. | Work First – Boys and Girls Clubs | 1,600,000 |
| 23 | 24 | 05. | Work First – After-School Services for At-Risk Children | 1,639,714 |
| 24 | 25 | 06. | Work First – After School Programs for At-Risk Youth in Middle Schools | 400,000 |
| 25 | 26 | 07. | Work First – Connect, Inc. (Work Central) | 220,000 |
| 26 | 27 | 08. | Work First – Citizens Schools Program | 360,000 |
| 27 | 28 | 09. | Adoption Services – Special Children's Adoption Fund | 819,229 |
| 28 | 29 | 10. | Family Violence Prevention | 880,000 |
| 29 | 30 | 11. | Child Welfare Collaborative Transition | 674,784 |

31 **Division of Child Development**

| | | | | |
|----|----|-----|-------------------------------|------------|
| 32 | 33 | 12. | Subsidized Child Care Program | 61,087,077 |
|----|----|-----|-------------------------------|------------|

| | | |
|----|---|---------------|
| 1 | Division of Public Health | |
| 2 | | |
| 3 | 13. Teen Pregnancy Prevention Initiatives | 360,000 |
| 4 | | |
| 5 | DHHS Administration | |
| 6 | | |
| 7 | 14. Division of Social Services | 1,093,176 |
| 8 | | |
| 9 | 15. Office of the Secretary | 20,000 |
| 10 | | |
| 11 | Transfers to Other Block Grants | |
| 12 | | |
| 13 | Division of Child Development | |
| 14 | | |
| 15 | 16. Transfer to the Child Care and | |
| 16 | Development Fund | 84,330,900 |
| 17 | | |
| 18 | Division of Social Services | |
| 19 | | |
| 20 | 17. Transfer to Social Services Block Grant for Child | |
| 21 | Protective Services –Training | 1,000,000 |
| 22 | | |
| 23 | 18. Transfer to Social Services Block Grant for Maternity Homes | 471,501 |
| 24 | | |
| 25 | 19. Transfer to Social Services Block Grant for Teen | |
| 26 | Pregnancy Prevention Initiatives | 1,250,000 |
| 27 | | |
| 28 | 20. Transfer to Social Services Block Grant for County | |
| 29 | Departments of Social Services for Children's Services | 4,500,000 |
| 30 | | |
| 31 | 21. Transfer to Social Services Block Grant for | |
| 32 | Subsidized Child Care Program | 2,000,000 |
| 33 | | |
| 34 | TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES | |
| 35 | (TANF) BLOCK GRANT | \$359,440,083 |
| 36 | | |
| 37 | SOCIAL SERVICES BLOCK GRANT | |
| 38 | | |
| 39 | Local Program Expenditures | |
| 40 | | |
| 41 | Divisions of Social Services and Aging and Adult Services | |
| 42 | | |
| 43 | 01. County Departments of Social Services | \$ 28,868,189 |
| 44 | (Transfer from TANF – \$4,500,000) | |
| 45 | | |
| 46 | 02. State In-Home Services Fund (DAAS) | 2,101,113 |
| 47 | | |
| 48 | 03. State Adult Day Care Fund (DAAS) | 2,155,301 |
| 49 | | |
| 50 | 04. Child Protective Services/CPS Investigative | |
| 51 | Services-Child Medical Evaluation Program (DSS) | 609,455 |

| | | |
|----|-----|--|
| 1 | | |
| 2 | 05. | Foster Care Services 1,989,363 |
| 3 | | |
| 4 | 06. | Maternity Homes (Transfer from TANF) 471,501 |
| 5 | | |
| 6 | 07. | Special Children Adoption Incentive Fund 500,000 |
| 7 | | |
| 8 | 08. | Child Protective Services-Child Welfare Training |
| 9 | | for Counties 1,000,000 |
| 10 | | (Transfer from TANF) |
| 11 | | |
| 12 | 09. | Home and Community Care Block Grant (HCCBG) 1,834,077 |
| 13 | | |
| 14 | | Division of Mental Health, Developmental Disabilities, and Substance |
| 15 | | Abuse Services |
| 16 | | |
| 17 | 10. | Mental Health Services Program 422,003 |
| 18 | | |
| 19 | 11. | Developmental Disabilities Services Program 5,000,000 |
| 20 | | |
| 21 | 12. | Mental Health Services-Adult and |
| 22 | | Child/Developmental Disabilities Program/ |
| 23 | | Substance Abuse Services-Adult 3,234,601 |
| 24 | | |
| 25 | | Division of Child Development |
| 26 | | |
| 27 | 13. | Subsidized Child Care Program 3,150,000 |
| 28 | | (Transfer from TANF \$2,000,000) |
| 29 | | |
| 30 | | Division of Vocational Rehabilitation |
| 31 | | |
| 32 | 14. | Vocational Rehabilitation Services – Easter Seal Society/UCP |
| 33 | | Community Health Program 188,263 |
| 34 | | |
| 35 | | Division of Public Health |
| 36 | | |
| 37 | 15. | Teen Pregnancy Prevention Initiatives 1,250,000 |
| 38 | | (Transfer from TANF) |
| 39 | | |
| 40 | | DHHS Program Expenditures |
| 41 | | |
| 42 | | Division of Aging and Adult Services |
| 43 | | |
| 44 | 16. | UNC-CH CARES Training Contract 247,920 |
| 45 | | |
| 46 | | Division of Services for the Blind |
| 47 | | |
| 48 | 17. | Independent Living Program 3,633,077 |
| 49 | | |
| 50 | | Division of Health Service Regulation |
| 51 | | |

| | | | |
|----|---|---|---------------|
| 1 | 18. | Adult Care Licensure Program | 411,897 |
| 2 | | | |
| 3 | 19. | Mental Health Licensure and Certification Program | 205,668 |
| 4 | | | |
| 5 | DHHS Administration | | |
| 6 | | | |
| 7 | 20. | Division of Aging and Adult Services | 688,436 |
| 8 | | | |
| 9 | 21. | Division of Social Services | 892,624 |
| 10 | | | |
| 11 | 22. | Office of the Secretary/Controller's Office | 138,058 |
| 12 | | | |
| 13 | 23. | Office of the Secretary/DIRM | 87,483 |
| 14 | | | |
| 15 | 24. | Division of Child Development | 15,000 |
| 16 | | | |
| 17 | 25. | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | 29,665 |
| 18 | | | |
| 19 | | | |
| 20 | 26. | Division of Health Service Regulation | 235,625 |
| 21 | | | |
| 22 | 27. | Office of the Secretary-NC Inter-Agency Council for Coordinating Homeless Programs | 250,000 |
| 23 | | | |
| 24 | | | |
| 25 | 28. | Office of the Secretary | 48,053 |
| 26 | | | |
| 27 | Transfers to Other State Agencies | | |
| 28 | | | |
| 29 | Department of Administration | | |
| 30 | | | |
| 31 | 29. | NC Commission of Indian Affairs In-Home Services for the Elderly | 203,198 |
| 32 | | | |
| 33 | | | |
| 34 | Transfers to Other Block Grants | | |
| 35 | | | |
| 36 | Division of Public Health | | |
| 37 | | | |
| 38 | 30. | Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning | 145,819 |
| 39 | | | |
| 40 | | | |
| 41 | TOTAL SOCIAL SERVICES BLOCK GRANT | | \$ 60,006,389 |
| 42 | | | |
| 43 | LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT | | |
| 44 | | | |
| 45 | Local Program Expenditures | | |
| 46 | | | |
| 47 | Division of Social Services | | |
| 48 | | | |
| 49 | 01. | Low-Income Energy Assistance Program (LIEAP) | \$ 70,909,401 |
| 50 | | | |
| 51 | 02. | Crisis Intervention Program (CIP) | 40,373,328 |

| | | |
|----|--|----------------|
| 1 | | |
| 2 | Local Administration | |
| 3 | | |
| 4 | Division of Social Services | |
| 5 | | |
| 6 | 03. County DSS Administration | 6,362,505 |
| 7 | | |
| 8 | DHHS Administration | |
| 9 | | |
| 10 | 04. Division of Social Services | 275,000 |
| 11 | | |
| 12 | 05. Division of Mental Health, Developmental | |
| 13 | Disabilities, and Substance Abuse Services | 8,128 |
| 14 | | |
| 15 | 06. Office of the Secretary/DIRM | 276,784 |
| 16 | | |
| 17 | 07. Office of the Secretary/Controller's Office | 12,332 |
| 18 | | |
| 19 | Transfers to Other State Agencies | |
| 20 | | |
| 21 | Department of Commerce | |
| 22 | | |
| 23 | 08. Weatherization Program | 500,000 |
| 24 | | |
| 25 | 09. Heating Air Repair and Replacement Program (HARRP) | 8,103,157 |
| 26 | | |
| 27 | 10. Local Residential Energy Efficiency Service | |
| 28 | Providers – Weatherization | 25,000 |
| 29 | | |
| 30 | 11. Local Residential Energy Efficiency Service Providers–HARRP | 266,375 |
| 31 | | |
| 32 | 12. Department of Commerce Administration –Weatherization | 25,000 |
| 33 | | |
| 34 | 13. Department of Commerce Administration – HARRP | 266,375 |
| 35 | | |
| 36 | 14. Department of Administration –N.C. Commission of Indian Affairs | 129,807 |
| 37 | | |
| 38 | TOTAL LOW-INCOME HOME ENERGY ASSISTANCE | |
| 39 | BLOCK GRANT | \$ 127,533,192 |
| 40 | | |
| 41 | CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT | |
| 42 | | |
| 43 | Local Program Expenditures | |
| 44 | Division of Child Development | |
| 45 | | |
| 46 | 01. Subsidized Child Care Services (CCDF) | \$156,953,297 |
| 47 | | |
| 48 | 02. Child Care Services Support – Contract | 502,080 |
| 49 | | |
| 50 | 03. Subsidized Child Care Services (Transfer from TANF) | 84,330,900 |
| 51 | | |

| | | |
|----|--|---------------|
| 1 | 04. Quality and Availability Initiatives | 23,726,564 |
| 2 | | |
| 3 | 05. TEACH Scholarships | 3,800,000 |
| 4 | | |
| 5 | Division of Social Services | |
| 6 | | |
| 7 | 06. Child Care Services Support – Local | \$16,108,597 |
| 8 | | |
| 9 | DHHS Administration | |
| 10 | | |
| 11 | Division of Child Development | |
| 12 | | |
| 13 | 07. DCD Administrative Expenses | 6,753,387 |
| 14 | | |
| 15 | Division of Central Administration | |
| 16 | | |
| 17 | 08. DHHS Central Administration – DIRM | |
| 18 | Technical Services | 774,317 |
| 19 | | |
| 20 | TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT | \$292,949,143 |
| 21 | | |
| 22 | CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH | |
| 23 | THE AMERICAN RECOVERY AND REINVESTMENT ACT of 2009 (ARRA) | |
| 24 | | |
| 25 | Local Program Expenditures | |
| 26 | | |
| 27 | Division of Child Development | |
| 28 | | |
| 29 | 01. Subsidized Child Care Services (CCDF) | \$9,980,997 |
| 30 | | |
| 31 | DHHS Program Expenditures | |
| 32 | | |
| 33 | Division of Child Development | |
| 34 | | |
| 35 | 02. Quality and Availability Initiatives | 2,904,786 |
| 36 | | |
| 37 | TOTAL CHILD CARE AND DEVELOPMENT FUND | |
| 38 | BLOCK GRANT RECEIVED THROUGH ARRA | \$12,885,784 |
| 39 | | |
| 40 | MENTAL HEALTH SERVICES BLOCK GRANT | |
| 41 | | |
| 42 | Local Program Expenditures | |
| 43 | | |
| 44 | 01. Mental Health Services – Adult | \$ 6,856,242 |
| 45 | | |
| 46 | 02. Mental Health Services – Child | 5,421,991 |
| 47 | | |
| 48 | 03. Administration | 100,000 |
| 49 | | |
| 50 | TOTAL MENTAL HEALTH SERVICES BLOCK GRANT | \$ 12,378,233 |
| 51 | | |

| | | |
|----|---|---------------|
| 1 | SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT | |
| 2 | | |
| 3 | Local Program Expenditures | |
| 4 | | |
| 5 | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | |
| 6 | | |
| 7 | 01. Substance Abuse Services – Adult | \$ 22,008,080 |
| 8 | | |
| 9 | 02. Substance Abuse Treatment Alternative for Women | 8,107,303 |
| 10 | | |
| 11 | 03. Substance Abuse – HIV and IV Drug | 5,116,378 |
| 12 | | |
| 13 | 04. Substance Abuse Prevention – Child | 7,186,857 |
| 14 | | |
| 15 | 05. Substance Abuse Services – Child | 4,940,500 |
| 16 | | |
| 17 | 06. Administration | 500,000 |
| 18 | | |
| 19 | Division of Public Health | |
| 20 | | |
| 21 | 08. Risk Reduction Projects | 633,980 |
| 22 | | |
| 23 | 09. Aid-to-Counties | 209,576 |
| 24 | | |
| 25 | TOTAL SUBSTANCE ABUSE PREVENTION | |
| 26 | AND TREATMENT BLOCK GRANT | \$ 48,702,674 |
| 27 | | |
| 28 | MATERNAL AND CHILD HEALTH BLOCK GRANT | |
| 29 | | |
| 30 | Local Program Expenditures | |
| 31 | | |
| 32 | Division of Public Health | |
| 33 | | |
| 34 | 01. Children's Health Services | \$7,534,865 |
| 35 | | |
| 36 | 02. Women's Health | 7,701,691 |
| 37 | | |
| 38 | 03. Oral Health | 38,041 |
| 39 | | |
| 40 | DHHS Program Expenditures | |
| 41 | | |
| 42 | Division of Public Health | |
| 43 | | |
| 44 | 04. Children's Health Services | 1,368,778 |
| 45 | | |
| 46 | 05. Women's Health | 135,452 |
| 47 | | |
| 48 | 06. State Center for Health Statistics | 179,483 |
| 49 | | |
| 50 | 07. Quality Improvement in Public Health | 14,646 |
| 51 | | |

| | | | |
|----|-----|--|---------------|
| 1 | 08. | Health Promotion | 88,746 |
| 2 | | | |
| 3 | 09. | Office of Minority Health | 55,250 |
| 4 | | | |
| 5 | 10. | Immunization Program – Vaccine Distribution | 382,648 |
| 6 | | | |
| 7 | | DHHS Administration | |
| 8 | | | |
| 9 | | Division of Public Health | |
| 10 | | | |
| 11 | 11. | Division of Public Health Administration | 631,966 |
| 12 | | | |
| 13 | | TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT | \$ 18,131,566 |
| 14 | | | |
| 15 | | PREVENTIVE HEALTH SERVICES BLOCK GRANT | |
| 16 | | | |
| 17 | | Local Program Expenditures | |
| 18 | | | |
| 19 | | Division of Public Health | |
| 20 | | | |
| 21 | 01. | NC Statewide Health Promotion | \$1,730,653 |
| 22 | | | |
| 23 | 02. | Services to Rape Victims | 197,112 |
| 24 | | | |
| 25 | 03. | HIV/STD Prevention and Community Planning | |
| 26 | | (Transfer from Social Services Block Grant) | 145,819 |
| 27 | | | |
| 28 | | DHHS Program Expenditures | |
| 29 | | | |
| 30 | | Division of Public Health | |
| 31 | | | |
| 32 | 04. | NC Statewide Health Promotion | 1,623,117 |
| 33 | | | |
| 34 | 05. | Oral Health | 70,000 |
| 35 | | | |
| 36 | 06. | State Laboratory of Public Health | 16,600 |
| 37 | | | |
| 38 | | TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT | \$ 3,783,301 |
| 39 | | | |
| 40 | | COMMUNITY SERVICES BLOCK GRANT | |
| 41 | | | |
| 42 | | Local Program Expenditures | |
| 43 | | | |
| 44 | | Office of Economic Opportunity | |
| 45 | | | |
| 46 | 01. | Community Action Agencies | \$ 17,968,944 |
| 47 | | | |
| 48 | 02. | Limited Purpose Agencies | 998,275 |
| 49 | | | |
| 50 | | DHHS Administration | |
| 51 | | | |

| | | |
|----|--|---------------|
| 1 | 03. Office of Economic Opportunity | 998,274 |
| 2 | | |
| 3 | TOTAL COMMUNITY SERVICES BLOCK GRANT | \$ 19,965,493 |
| 4 | | |
| 5 | COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN | |
| 6 | RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) | |
| 7 | | |
| 8 | Local Program Expenditures | |
| 9 | | |
| 10 | Office of Economic Opportunity | |
| 11 | | |
| 12 | 01. Community Action Agencies | \$ 10,000,000 |
| 13 | | |
| 14 | TOTAL COMMUNITY SERVICES BLOCK GRANT | |
| 15 | RECEIVED THROUGH ARRA | \$ 10,000,000 |
| 16 | | |

17 GENERAL PROVISIONS

18 **SECTION 10.22.(b)** Information to Be Included in Block Grant Plans. – The
 19 Department of Health and Human Services shall submit a separate plan for each Block Grant
 20 received and administered by the Department, and each plan shall include the following:

- 21 (1) A delineation of the proposed allocations by program or activity, including
 22 State and federal match requirements.
- 23 (2) A delineation of the proposed State and local administrative expenditures.
- 24 (3) An identification of all new positions to be established through the Block
 25 Grant, including permanent, temporary, and time-limited positions.
- 26 (4) A comparison of the proposed allocations by program or activity with two
 27 prior years' program and activity budgets and two prior years' actual program
 28 or activity expenditures.
- 29 (5) A projection of current year expenditures by program or activity.
- 30 (6) A projection of federal Block Grant funds available, including unspent
 31 federal funds from the current and prior fiscal years.

32 **SECTION 10.22.(c)** Changes in Federal Fund Availability. – If the Congress of the
 33 United States increases the federal fund availability for any of the Block Grants administered
 34 by the Department of Health and Human Services from the amounts appropriated in this
 35 section, the Department shall allocate the increase proportionally across the program and
 36 activity appropriations identified for that Block Grant in this section. In allocating an increase
 37 in federal fund availability, the Department shall not propose funding for new programs or
 38 activities not appropriated in this section.

39 If the Congress of the United States decreases the federal fund availability for any of
 40 the Block Grants administered by the Department of Health and Human Services from the
 41 amounts appropriated in this section, the Department shall reduce State administration by at
 42 least the percentage of the reduction in federal funds. After determining the State
 43 administration, the remaining reductions shall be allocated proportionately across the program
 44 and activity appropriations identified for that Block Grant in this section.

45 Prior to allocating the change in federal fund availability, the proposed allocation
 46 must be approved by the Office of State Budget and Management. If the Department adjusts the
 47 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
 48 made to the Joint Legislative Commission on Governmental Operations, the House of
 49 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
 50 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

1 **SECTION 10.22.(d)** Appropriations from federal Block Grant funds are made for
2 the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year
3 2010-2011 or until a new schedule is enacted by the General Assembly.

4 **SECTION 10.22.(e)** All changes to the budgeted allocations to the Block Grants
5 administered by the Department of Health and Human Services that are not specifically
6 addressed in this section shall be approved by the Office of State Budget and Management, and
7 a report shall be submitted to the Joint Legislative Commission on Governmental Operations
8 for review prior to implementing the changes. All changes to the budgeted allocations to the
9 Block Grants shall be reported immediately to the House of Representatives Appropriations
10 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
11 and Human Services, and the Fiscal Research Division. This subsection does not apply to
12 Block Grant changes caused by legislative salary increases and benefit adjustments.
13

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT

14 **SECTION 10.22.(f)** The sum of one million ninety-three thousand one hundred
15 seventy-six dollars (\$1,093,176) appropriated in this section in the TANF Block Grant to the
16 Department of Health and Human Services, Division of Social Services, for the 2010-2011
17 fiscal year shall be used to support administration of TANF-funded programs.

18 **SECTION 10.22.(g)** The sum of eight hundred eighty thousand dollars (\$880,000)
19 appropriated under this section in the TANF Block Grant to the Department of Health and
20 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to
21 provide domestic violence services to Work First recipients. These funds shall be used to
22 provide domestic violence counseling, support, and other direct services to clients. These funds
23 shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts.
24 The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in
25 TANF funds to support one administrative position within the Division of Social Services to
26 implement this subsection.

27 Each county department of social services and the local domestic violence shelter
28 program serving the county shall develop jointly a plan for utilizing these funds. The plan shall
29 include the services to be provided and the manner in which the services shall be delivered. The
30 county plan shall be signed by the county social services director or the director's designee and
31 the domestic violence program director or the director's designee and submitted to the Division
32 of Social Services by December 1, 2010. The Division of Social Services, in consultation with
33 the Council for Women, shall review the county plans and shall provide consultation and
34 technical assistance to the departments of social services and local domestic violence shelter
35 programs, if needed.

36 The Division of Social Services shall allocate these funds to county departments of
37 social services according to the following formula: (i) each county shall receive a base
38 allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of
39 the remaining funds based on the county's proportion of the statewide total of the Work First
40 caseload as of July 1, 2010, and the county's proportion of the statewide total of the individuals
41 receiving domestic violence services from programs funded by the Council for Women as of
42 July 1, 2010. The Division of Social Services may reallocate unspent funds to counties that
43 submit a written request for additional funds.

44 **SECTION 10.22.(h)** The sum of one million six hundred thirty-nine thousand
45 seven hundred fourteen dollars (\$1,639,714) appropriated in this section in TANF Block Grant
46 funds to the Department of Health and Human Services, Division of Social Services, for the
47 2010-2011 fiscal year shall be used to expand after-school programs and services for at-risk
48 children. The Department shall develop and implement a grant program to award grants to
49 community-based programs that demonstrate the ability to reach children at risk of teen
50 pregnancy, school dropout, and gang participation. The Department shall award grants to

1 community-based organizations that demonstrate the ability to develop and implement linkages
2 with local departments of social services, area mental health programs, schools, and other
3 human services programs in order to provide support services and assistance to the child and
4 family. These funds may be used to fund one position within the Division of Social Services to
5 coordinate at-risk after-school programs and shall not be used for other State administration.

6 **SECTION 10.22.(i)** The sum of fourteen million four hundred fifty-two thousand
7 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department
8 of Health and Human Services, Division of Social Services, in the TANF Block Grant for the
9 2010-2011 fiscal year for child welfare improvements shall be allocated to the county
10 departments of social services for hiring or contracting staff to investigate and provide services
11 in Child Protective Services cases; to provide foster care and support services; to recruit, train,
12 license, and support prospective foster and adoptive families; and to provide interstate and
13 post-adoption services for eligible families.

14 **SECTION 10.22.(j)** The sum of eight hundred nineteen thousand two hundred
15 twenty nine dollars (\$819,229) appropriated in this section in TANF Block Grant funds to the
16 Department of Health and Human Services, Special Children Adoption Fund, for the
17 2010-2011 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section
18 10.48 of this act. The Division of Social Services, in consultation with the North Carolina
19 Association of County Directors of Social Services and representatives of licensed private
20 adoption agencies, shall develop guidelines for the awarding of funds to licensed public and
21 private adoption agencies upon the adoption of children described in G.S. 108A-50 and in
22 foster care. Payments received from the Special Children Adoption Fund by participating
23 agencies shall be used exclusively to enhance the adoption services program. No local match
24 shall be required as a condition for receipt of these funds.

25 **SECTION 10.22.(k)** The sum of four hundred thousand dollars (\$400,000)
26 appropriated in this section to the Department of Health and Human Services, Division of
27 Social Services, in TANF Block Grant funds for the 2010-2011 fiscal year shall be used to
28 expand after-school programs for at-risk youth attending middle school. The Department shall
29 develop and implement a grant program to award funds to community-based programs
30 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and
31 gang participation. These funds shall not be used for training or administration at the State
32 level. All funds shall be distributed to community-based programs, focusing on those
33 communities where similar programs do not exist in middle schools.

34 **SECTION 10.22.(l)** In implementing the TANF Block Grants, the Department of
35 Health and Human Services shall review policies, programs, and initiatives to ensure that they
36 support men in their role as fathers and strengthen fathers' involvement in their children's lives.
37 The Department shall encourage county departments of social services to ensure their Work
38 First programs emphasize responsible fatherhood and increased participation by noncustodial
39 fathers.

40 **SECTION 10.22.(m)** The sum of two hundred twenty thousand dollars (\$220,000)
41 appropriated in this section to the Department in TANF Block Grant funds for the 2010-2011
42 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of
43 people served and the services received as a result of the receipt of funds. The report shall
44 contain expenditure data, including the amount of funds used for administration and direct
45 training. The report shall also include the number of people who have been employed as a
46 direct result of services provided by Connect, Inc., including the length of employment in the
47 new position. The Department of Health and Human Services shall evaluate the program and
48 ensure that services provided are not duplicative of local employment security commissions in
49 the nine **counties** served by Connect, Inc. The evaluation report shall be submitted to the House
50 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate

1 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no
2 later than May 1, 2011.

3 **SECTION 10.22.(n)** The sum of one million six hundred thousand dollars
4 (\$1,600,000) appropriated in this section to the Department in TANF Block Grant funds for
5 Boys and Girls Clubs for the 2010-2011 fiscal year shall be used to make grants for approved
6 programs. The Department of Health and Human Services, in accordance with federal
7 regulations for the use of TANF Block Grant funds, shall administer a grant program to award
8 funds to the Boys and Girls Clubs across the State in order to implement programs that improve
9 the motivation, performance, **and** self-esteem of youths and to implement other initiatives that
10 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The
11 Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and
12 Support Our Students, Communities in Schools, and similar programs to submit joint
13 applications for the funds if appropriate.

14 **SECTION 10.22.(o)** The sum of six hundred seventy four thousand, seven hundred
15 eighty four dollars (\$674,784) appropriated in this section to the Department of Health and
16 Human Services in the TANF Block Grant for the 2010-2011 fiscal year shall be used to
17 continue support for the Child Welfare Collaborative transition.

18 **SECTION 10.22.(p)** The sum of three hundred sixty thousand dollars (\$360,000)
19 appropriated to the Department of Health and Human Services, Division of Social Services,
20 under this section in TANF Block Grant funds for the 2010-2011 fiscal year shall be used to
21 continue support for the Citizens Schools Program, an urban/rural dropout prevention pilot
22 program in the Durham and Vance county public school systems.

23 24 **SOCIAL SERVICES BLOCK GRANT**

25 **SECTION 10.22.(q)** Social Services Block Grant funds appropriated to the North
26 Carolina Inter-Agency Council for Coordinating Homeless Programs and funds appropriated
27 for child medical evaluations are exempt from the provisions of 10A NCAC 71R .0201(3).

28 **SECTION 10.22.(r)** The sum of one million dollars (\$1,000,000) appropriated in
29 this section in the Social Services Block Grant to the Department of Health and Human
30 Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support
31 various child welfare training projects as follows:

- 32 (1) Provide a regional training center in southeastern North Carolina.
- 33 (2) Provide training for residential child caring facilities.
- 34 (3) Provide for various other child welfare training initiatives.

35 **SECTION 10.22.(s)** The sum of four hundred seventy-one thousand five hundred
36 one dollars (\$471,501) appropriated in this section to the Department of Health and Human
37 Services in the Social Services Block Grant for the 2010-2011 fiscal year shall be used to
38 support maternity home services.

39 **SECTION 10.22.(t)** The sum of one million nine hundred eighty-nine thousand
40 three hundred sixty-three dollars (\$1,989,363) appropriated in this section in the Social
41 Services Block Grant for the 2010-2011 fiscal year shall be allocated in support of State foster
42 home children.

43 **SECTION 10.22.(u)** The Department of Health and Human Services is authorized,
44 subject to the approval of the Office of State Budget and Management, to transfer Social
45 Services Block Grant funding allocated for departmental administration between divisions that
46 have received administrative allocations from the Social Services Block Grant.

47 **SECTION 10.22.(v)** Social Services Block Grant funds appropriated for the
48 Special Children's Adoption Incentive Fund will require fifty percent (50%) local match.

49 50 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

1 **SECTION 10.22.(w)** Additional emergency contingency funds received may be
2 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
3 consultation with the Joint Legislative Commission on Governmental Operations. Additional
4 funds received shall be reported to the Joint Legislative Commission on Governmental
5 Operations and the Fiscal Research Division upon notification of the award. The Department of
6 Health and Human Services shall not allocate funds for any activities, including increasing
7 administration, other than assistance payments, without prior consultation with the Joint
8 Legislative Commission on Governmental Operations.

9 In addition to funds available for weatherization appropriated within the
10 Low-Income Home Energy Assistance Block Grant, funds available through the American
11 Recovery and Reinvestment Act of 2009 shall be used to continue to enhance weatherization
12 activities coordinated by local agencies.
13

14 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

15 **SECTION 10.22.(x)** Payment for subsidized child care services provided with
16 federal TANF funds shall comply with all regulations and policies issued by the Division of
17 Child Development for the subsidized child care program.

18 **SECTION 10.22.(y)** If funds appropriated through the Child Care and
19 Development Fund Block Grant for any program cannot be obligated or spent in that program
20 within the obligation or liquidation periods allowed by the federal grants, the Department may
21 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
22 grant, in order to use the federal funds fully.

23 **SECTION 10.22.(z)** Funds from the Child Care and Development Fund Block
24 Grant received through the American Recovery and Reinvestment Act of 2009 shall be used to
25 increase access to child care subsidy. To help address the economic downturn and increasing
26 unemployment in North Carolina, the Department of Health and Human Services, Division of
27 Child Development, shall adopt temporary policies that facilitate and expedite the prudent
28 expenditure of these funds as follows:

- 29 (1) Permit the local purchasing agencies to issue time-limited vouchers to assist
30 counties in managing onetime, nonrecurring subsidy funding.
- 31 (2) Extend the current 30/60-day job search policy to six months when a
32 recipient experiences a loss of employment.
- 33 (3) Provide an up-front job search period of six months for applicants who have
34 lost employment since October 1, 2008.
- 35 (4) Provide a job search period of six months for recipients that complete school
36 and are entering the job market.
- 37 (5) Notwithstanding any other provision of law, extend the 24-month education
38 time limit for an additional 12 months for a child care recipient who has lost
39 a job since October 1, 2008, or otherwise needs additional training to
40 enhance his or her marketable skills for job placement due to the economic
41 downturn and who has depleted his or her 24-month allowable education
42 time.
- 43 (6) Lower the number of hours a parent must be working in order to be eligible
44 for subsidy to assist parents who are continuing to work but at reduced
45 hours.

46 **SECTION 10.22.(aa)** If American Recovery and Reinvestment Act of 2009 funds
47 appropriated through the Child Care and Development Fund Block Grant for any program
48 cannot be obligated or spent in that program within the obligation or liquidation periods
49 allowed by the federal grants, the Department may move funds to child care subsidies, unless
50 otherwise prohibited by federal requirements of the grant, in order to use the federal funds
51 fully.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.22.(bb) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2010-2011 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) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.22.(cc) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

COMMUNITY SERVICES BLOCK GRANT

SECTION 10.22.(dd) In accordance with the intent of the American Recovery and Reinvestment Act of 2009, the North Carolina General Assembly strongly encourages recipients of Community Services Block Grant and Community Services Block Grant Recovery funds to enhance cooperation with county departments of social services and regional food banks to increase benefits enrollment for eligible persons.

SECTION 10.22.(ee) The sum of two hundred sixty-two thousand four hundred thirty-one dollars (\$262,431) appropriated in this section in the Community Services Block Grant, received through the American Recovery and Reinvestment Act of 2009 (ARRA), to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used for coordination activities relating to the identification and enrollment of eligible individuals and families in federal, State, and local benefit programs.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**FEE INCREASES**

SECTION 11.1.(a) G.S. 143-440 reads as rewritten:

"§ 143-440. Restricted use pesticides regulated.

(a) The Board may, by regulation after a public hearing, adopt and from time to time revise a list of restricted use pesticides for the State or for designated areas within the State. The Board may designate any pesticide or device as a "restricted use pesticide" upon the grounds that, in the judgment of the Board (either because of its persistence, its toxicity, or otherwise) it is so hazardous or injurious to persons, pollinating insects, animals, crops, wildlife, lands, or the environment, other than the pests it is intended to prevent, destroy, control, or mitigate that additional restriction on its sale, purpose, use or possession are required.

(b) The Board may include in any such restricted use regulation the time and conditions of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any restricted use pesticide for designated purposes or at designated times; may require the purchaser or user to certify that restricted use pesticides will be used only as labeled or as further restricted by regulation; may require the certification and recertification of private applicators and, charge a fee of up to ten dollars (\$10.00), with the fee set at a level to make the certification/recertification program self-supporting, and, after opportunity for a hearing, may suspend, revoke or modify the certification for violation of any provision of this Article, or any rule or regulation adopted thereunder; and may, if it deems it necessary to carry out the provisions of this Part, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the Board and under its direct supervision in certain

1 areas and/or under certain conditions or in certain quantities or concentrations except that any
2 person licensed to sell such pesticides may purchase and possess such pesticides without a
3 permit. The Board may require all persons issued such permits to maintain records as to the use
4 of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by
5 persons licensed under the North Carolina Structural Pest Control Act without a permit. A
6 nonrefundable fee of ten dollars (\$10.00) shall be charged for each examination required by
7 this section. This examination fee is in addition to the certification or recertification fee, and
8 any other fee authorized pursuant to any other provision of the North Carolina Pesticide Law of
9 1971, as amended.

10 (c) A fee of fifty dollars (\$50.00) shall be charged for examination of individuals
11 seeking to be designated as Worker Protection Designated Trainers, in accordance with
12 provisions of the Federal Worker Protection Standard set forth in 40 C.F.R. Part 170, and
13 subsequent amendments to those regulations."

14 **SECTION 11.1.(b)** G.S. 143-448 reads as rewritten:

15 "**§ 143-448. Licensing of pesticide dealers; fees.**

16 (a) No person shall act in the capacity of a pesticide dealer, or shall engage or offer to
17 engage in the business of, advertise as, or assume to act as a pesticide dealer unless he is
18 licensed annually as provided in this Part. A separate license and fee shall be obtained for each
19 location or outlet from which restricted use pesticides are distributed, sold, held for sale, or
20 offered for sale.

21 (b) Applications for a pesticide dealer license shall be in the form and shall contain the
22 information prescribed by the Board. Each application shall be accompanied by a
23 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued
24 under this Part shall expire on December 31 of the year for which they are issued.

25 (c) The license for a pesticide dealer may be renewed annually upon application to the
26 Board, accompanied by a fee of fifty dollars (\$50.00) for each license, on or before the first day
27 of January of the calendar year for which the license is issued.

28 (d) Repealed by Session Laws 1981, c. 592, s. 6.

29 (e) Every licensed pesticide dealer who changes his address or place of business shall
30 immediately notify the Board.

31 (f) The Board shall issue to each applicant that satisfies the requirements of this Part a
32 license which entitles the applicant to conduct the business described in the application for the
33 calendar year for which the license is issued, unless the license is sooner revoked or
34 suspended."

35 **SECTION 11.1.(c)** G.S. 143-449 reads as rewritten:

36 "**§ 143-449. Qualifications for pesticide dealer license; examinations.**

37 (a) An applicant for a license must present evidence satisfactory to the Board
38 concerning his qualifications for such license.

39 (b) Each applicant shall satisfy the Board as to his responsibility in carrying on the
40 business of a pesticide dealer. Each applicant for an original license must demonstrate upon
41 written, or written and oral, examination to be prescribed by the Board his knowledge of
42 pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his
43 knowledge of the laws and regulations governing the use and sale of pesticides. A
44 nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by
45 this section. This examination fee is in addition to any fee authorized pursuant to any other
46 provision of the North Carolina Pesticide Law of 1971, as amended.

47 (c) The Board shall by regulation:

48 (1) Designate what persons or class of persons shall be required to pass the
49 examination in the case of a pesticide dealer operating more than one
50 location, and in the case of an applicant that is a corporation, governmental
51 unit or agency, or other organized group;

- 1 (2) Provide for renewal license examinations at intervals not more frequent than
2 four years."

3 **SECTION 11.1.(d)** G.S. 143-452 reads as rewritten:

4 **"§ 143-452. Licensing of pesticide applicators; fees.**

5 (a) No person shall engage in the business of pesticide applicator within this State at
6 any time unless he is licensed annually as a pesticide applicator by the Board.

7 (b) Applications for pesticide applicator license shall be in the form and shall contain
8 the information prescribed by the Board. Each application shall be accompanied by a
9 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide
10 applicator's license. In addition, an annual inspection fee of twenty-five dollars (\$25.00) shall
11 be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making
12 it necessary for a second inspection to be made, the Board shall require an additional
13 twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced
14 inspections may be made without charge to determine if equipment is properly calibrated and
15 maintained in conformance with the laws and regulations. All aircraft licensed to apply
16 pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the
17 licensee, which plate or decal shall be affixed on the aircraft in a location and manner
18 prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be
19 charged to State agencies or local governments or their employees. Inspections of ground
20 pesticide application equipment may be made. Any such equipment determined to be faulty or
21 unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper
22 repairs and/or alterations are made.

23 (c) Repealed by Session Laws 1981, c. 592, s. 6.

24 (d) The Board shall classify licenses to be issued under this Part. Separate
25 classifications or subclassifications shall be specified for (i) ground and aerial methods of
26 application, and (ii) State and local government units engaged in the control of rodents and
27 insects of public health significance. The Board may include such further classifications and
28 subclassifications as the Board considers appropriate, including provisions for licensing of
29 apprentice pesticide applicators. For aerial applicators, a license shall be required for both the
30 contractor and the pilot. Each classification and subclassification may be subject to separate
31 testing procedures and requirements.

32 (e) Every licensed pesticide applicator who changes his address shall immediately
33 notify the Board.

34 (f) If the Board finds the applicant qualified to apply pesticides in the classifications he
35 has applied for and, if the applicant files the bond or insurance required under G.S. 143-467,
36 and if the applicant applying for a license to engage in aerial application of pesticides has met
37 all of the requirements of the Federal Aviation Agency to operate the equipment described in
38 the application, the Board shall issue a pesticide applicator's license limited to the
39 classifications for which he is qualified. Every such license shall expire at the end of the
40 calendar year of issue unless it has been revoked or suspended prior thereto by the Board for
41 cause, or unless such financial security required under G.S. 143-467 is dated to expire at an
42 earlier date, in which case said license shall be dated to expire upon expiration date of said
43 financial security. The license may restrict the applicant to the use of a certain type or types of
44 equipment or pesticides or to certain areas if the Board finds that the applicant is qualified to
45 use only such type or types. If a license is not issued as applied for, the Board shall inform the
46 applicant in writing of the reasons therefor.

47 (g) A pesticide applicator's license shall not be transferable. When there is a transfer of
48 ownership, management, or operation of a business of a licensee hereunder, the new owner,
49 manager, or operator (as the case may be) whether it be an individual, firm, partnership,
50 corporation, or other entity, must have available a licensed pesticide applicator to supervise the
51 pesticide application business prior to continuance of such business.

1 (h) Repealed by Session Laws 1987, c. 559, s. 15."

2 SECTION 11.1.(e) G.S. 143-453 reads as rewritten:

3 **"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

4 (a) An applicant for a license must present satisfactory evidence to the Board
5 concerning his qualifications for a pesticide applicator license. The contractor and each pilot
6 involved in aerial application of pesticides shall be licensed.

7 Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's
8 flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours
9 and one year's experience as a pilot in the field of aerial pesticide application shall be licensed
10 as an apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a
11 licensed apprentice shall be conducted under the direct supervision of a licensed pesticide
12 applicator pilot. The supervising pilot, while directly supervising an apprentice, shall operate
13 out of the same airstrip as the apprentice and shall be available periodically throughout each
14 day to provide advice and assistance to the apprentice. A nonrefundable fee of fifty dollars
15 (\$50.00) shall be charged for the examination required by this subsection. Such examination
16 fee shall be charged in addition to the fees authorized pursuant to subsection (b) of this section
17 or any other provision of the North Carolina Pesticide Law of 1971, as amended.

18 (b) Each applicant shall satisfy the Board as to his knowledge of the laws and
19 regulations governing the use and application of pesticides in the classifications he has applied
20 for (manually or with various equipment that he may have applied for a license to operate), and
21 as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for
22 an original license must demonstrate upon written, or written and oral, examination to be
23 prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his
24 competence as a pesticide applicator; and his knowledge of the laws and regulations governing
25 the use and application of pesticides in the classification for which he has applied. A
26 nonrefundable fee of fifty dollars (\$50.00) shall be charged for the core exam and an additional
27 twenty dollars (\$20.00) shall be charged for each additional specific classification licensure.
28 Such examination fees shall be charged in addition to the fees authorized pursuant to subsection
29 (a) of this section or any other provision of the North Carolina Pesticide Law of 1971, as
30 amended.

31 (c) The Board shall by regulation:

- 32 (1) Designate what persons or class of persons shall be required to pass the
33 examination in the case of an applicant that is a corporation or governmental
34 unit or agency;
- 35 (2) Provide for license renewal examinations at intervals not more frequent than
36 four years, or more frequently if found by the Board to be required to be
37 necessary in order to qualify North Carolina's State pesticide control plan for
38 federal approval."

39 SECTION 11.1.(f) G.S. 143-455 reads as rewritten:

40 **"§ 143-455. Pest control consultant license.**

41 (a) No person shall perform services as a pest control consultant without first procuring
42 from the Board a license. Applications for a consultant license shall be in the form and shall
43 contain the information prescribed by the Board. The application for a license shall be
44 accompanied by a non-refundable annual fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars
45 (\$75.00).

46 (b) An applicant for a consultant license must present satisfactory evidence to the Board
47 concerning his qualifications for such license. The Board may classify consultant licenses into
48 one or more classifications or subclassifications based upon types of consulting services
49 performed or to be performed. Such classifications and subclassifications may reflect the crops
50 involved in the consulting service, the discipline or training of consultant, the discretion or lack
51 of discretion involved in the consulting service, and the site or location of the service. Each

1 classification and subclassification may be subject to separate testing procedures and
2 requirements, and may be subject to its own minimum standards of training in specialized
3 subject matter from a recognized college or university, or equivalent specialized consulting
4 experience or training. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the
5 consultant examination and an additional twenty dollars (\$20.00) shall be charged for each
6 additional specific classification licensure permitted by this subsection. Such examination fee
7 shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or
8 any other provision of the North Carolina Pesticide Law of 1971, as amended. Qualifications
9 for licensing may be less stringent if the licensee is restricted to making recommendations
10 contained in publications recognized by the Board as appropriate for a specific consulting
11 classification or subclassification.

12 (c) Each applicant shall satisfy the Board as to his responsibility in carrying on the
13 business of a pesticide consultant. Each applicant for an original license must demonstrate upon
14 written, or written and oral, examination to be prescribed by the Board his knowledge of
15 pesticides, their usefulness and their hazards; his competence as a pesticide consultant; and his
16 knowledge of the laws and regulations governing the use and sale of pesticides.

17 (d) Pest control consultants shall be subject to the same provisions as pesticide
18 applicators concerning penalties for late applications for license, changes of address,
19 transferability of licenses, periodic reexamination, and examinations for corporate applicants."

20 **SECTION 11.1.(g)** G.S. 106-65.27 reads as rewritten:

21 **"§ 106-65.27. Examinations of applicants; fee; license not transferable.**

22 (a) Certified Applicator. – All applicants for a certified applicator's identification card
23 shall demonstrate practical knowledge of the principles and practices of pest control and safe
24 use of pesticides. Competency shall be determined on the basis of written examinations to be
25 provided and administered by the Committee and, as appropriate, performance testing. Testing
26 shall be based upon examples of problems and situations appropriate to the particular phase or
27 subphase of structural pest control for which application is made and shall include, where
28 relevant, the following areas of competency:

- 29 (1) Label and labeling comprehension.
- 30 (2) Safety factors associated with pesticides – toxicity, precautions, first aid,
31 proper handling, etc.
- 32 (3) Influence of and on the environment.
- 33 (4) Pests – identification, biology, and habits.
- 34 (5) Pesticides – types, formulations, compatibility, hazards, etc.
- 35 (6) Equipment – types and uses.
- 36 (7) Application techniques.
- 37 (8) Laws and regulations.

38 An applicant for a certified applicator's identification card shall submit an examination fee
39 of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) for each phase or subphase of structural
40 pest control in which the applicant chooses to be examined. An examination for more than one
41 phase or subphase may be taken at the same time at any regularly scheduled examination.
42 Frequency of such examinations shall be at the discretion of the Committee, provided that a
43 minimum of two examinations be given annually. The examination will cover each phase or
44 subphase of structural pest control for which application is being made.

45 (b) License. – Each applicant for an original license must demonstrate upon written
46 examination, to be provided and administered by the Committee, his competency as a structural
47 pest control operator for the phase or subphase in which he is applying for a license. Frequency
48 of such examinations shall be at the discretion of the Committee, provided that a minimum of
49 two examinations shall be given annually. The examination will cover each phase or subphase
50 of structural pest control for which application is being made. All applicants for a license shall
51 register with the Division on a prescribed form. A license examination fee of ~~twenty-five~~

1 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural
2 pest control in which the applicant chooses to be examined. An examination for more than one
3 phase or subphase of structural pest control may be taken at the same time.

4 (c) A license, certified applicator's identification card or registered technician's
5 identification card is not transferable from one person to another. A licensee or certified
6 applicator may change the name of his business or employer's business on his license certificate
7 or certified applicator's identification card upon application to the Division.

8 (c1) When there is a transfer of ownership, management, operation of a structural pest
9 control business or in the event of the death or disability of a licensee there shall be not more
10 than a total of 90 days during any 12-month period in which said business shall operate without
11 a licensee assigned to it; provided that, in the event of the death or disability of a licensee, the
12 Committee shall have the authority to grant up to an additional 90 days within the 12-month
13 period in which a business may operate without a licensee assigned to it.

14 The owner, partnership, corporation, or other entity operating said business shall, within 10
15 days of such transfer or disability or within 30 days of death, designate in writing to the
16 Division a certified applicator who shall be responsible for and in charge of the structural pest
17 control operations of said business during the 90-day period. If the owner, partnership,
18 corporation, or other entity operating the business fails to designate a certified applicator who
19 shall be responsible for the operation of the business during the 90-day period, the business
20 shall cease all structural pest control activities upon expiration of the applicable notification
21 period and shall not resume operations until a certified applicator is so designated.

22 During the 90-day period the use of any restricted use pesticide shall be by or under the
23 direct supervision of the certified applicator designated in writing to the Division. The
24 designated certified applicator shall be responsible for correcting all deviations on all existing
25 contracts and for all work performed under his supervision.

26 The new licensee shall be responsible for correcting all deviations on all existing contracts
27 and for all work performed under his supervision.

28 (d) The Committee shall by regulation provide for:

- 29 (1) Establishing categories of certified applicators, along with such appropriate
30 subcategories as are necessary, to meet the requirements of this Article;
- 31 (2) All licensees licensed prior to October 21, 1976, to become qualified as
32 certified applicators; and
- 33 (3) Requalifying certified applicators thereafter as required by the federal
34 government at intervals no more frequent than that specified by federal law
35 and federal regulations."

36 **SECTION 11.1.(h)** G.S. 106-65.31 reads as rewritten:

37 **"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen,
38 salesmen, solicitors, and estimators; identification cards.**

39 (a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a
40 certified applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00).
41 Within 75 days after the employment of a certified applicator, the licensee shall apply to the
42 Division for the issuance of a certified applicator's identification card. A certified applicator's
43 identification card shall expire on June 30 of each year and shall be renewed annually. All
44 certified applicators who fail or neglect to renew their card on or before June 30 but make
45 application before January 1 of the following year may have their card renewed without having
46 to be reexamined unless the applicant is scheduled for periodic reexamination under regulations
47 adopted pursuant to G.S. 106-65.27(d)(3). All applicants submitting applications for the
48 renewal of their cards after June 30 shall not use or supervise the use of restricted use pesticides
49 until a new card has been issued.

50 Any certified applicator whose employment is terminated with a licensee or agent prior to
51 the end of any license year may at any time prior to the end of the license year be reissued a

1 certified applicator's identification card for the remainder of the license year as an employee of
2 another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee
3 shall notify the Division of the termination or change in status of any certified applicator.

4 Any certified applicator whose identification card is lost or destroyed or changed in any
5 way may be reissued a new card for the remainder of the license year for a fee of five dollars
6 (\$5.00).

7 (b) License. – The fee for the issuance or renewal of a license for any one phase of
8 structural pest control shall be ~~one hundred fifty dollars (\$150.00)~~ two hundred dollars
9 (\$200.00). Each additional phase shall be ~~sixty five dollars (\$65.00)~~ seventy-five dollars
10 (\$75.00). The fee for each subphase shall be fifteen dollars (\$15.00). Licenses shall expire on
11 June 30 of each year and shall be renewed annually. All licensees who fail or neglect to renew
12 their license on or before June 30, but who make application before January 1 of the following
13 year, may have their license renewed without having to be reexamined, unless the applicant is
14 scheduled for periodic reexamination under regulations adopted pursuant to
15 G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has
16 been renewed or until a new license has been issued.

17 Any licensee whose employment is terminated by his employer or any licensee who is
18 transferred to another company or location other than the company or location shown on his
19 license certificate, may at any time, have his license reissued for the remainder of the license
20 year for a fee of ten dollars (\$10.00).

21 Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of
22 ten dollars (\$10.00).

23 (b1) Registration. – Within 75 days after the hiring of an employee who is either an
24 estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the
25 issuance of an identification card for such employee. The application must be accompanied by
26 a fee of ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for each card. The card shall be
27 issued in the name of the employee and shall bear the name of the employing licensee, the
28 employer's license number and phases, the name and address of the employer's business, and
29 such other information as the Committee may specify. The identification card shall be carried
30 by the employee on his person at all times while performing any phase of structural pest control
31 work. The card must be displayed upon demand by the Commissioner, the Committee, the
32 Division, or any representative thereof, or the person for whom any phase of structural pest
33 control work is being performed. A registered technician's identification card must be renewed
34 annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a
35 card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The
36 licensee shall notify the Division of the termination or change in status of any registered
37 technician. All identification cards expire when a license expires.

38 When a license is reissued, the licensee shall be responsible for registering and securing
39 identification cards for all existing employees who engage in structural pest control within 10
40 days of the reissuance of the license.

41 A certified applicator who is not an employee of a licensed individual shall register the
42 names of all employees under his supervision who are engaged in the performance of structural
43 pest control with the Division and shall purchase a registered technician's identification card for
44 each such employee.

45 (b2) No person shall act as an estimator, serviceman, salesman, solicitor, or agent for any
46 licensee under this Article nor shall any such person be issued an identification card by the
47 Committee who has within three years of the date of application for an identification card been
48 convicted of, plead guilty or nolo contendere, or forfeited bond in any State or federal court for
49 a felony or any violation of the North Carolina Structural Pest Control Act or any regulation
50 promulgated by the Committee. This provision shall not apply to any person whose citizenship
51 has been restored as provided by law.

1 (b3) No person or business shall advertise as a contractor for structural pest control
2 services nor actually contract for such services unless that person or business advertises or
3 contracts in the name of the company shown on the license certificate of the licensee or
4 identification card of the certified applicator who will perform the services.

5 (c) Notwithstanding any other provision of this law, the Committee may adopt rules to
6 provide for the issuance of licenses, certified applicator's cards, and registered technician's
7 identification cards with staggered expiration dates and may prorate renewal fees on a monthly
8 basis to implement such rules."

9 10 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

11 12 **FISHERY RESOURCE GRANT FUNDS TO BE USED FOR AT-SEA OBSERVER** 13 **PROGRAM**

14 **SECTION 12.1.** Of the funds appropriated to the Department of Environment and
15 Natural Resources for the Fishery Resource Grant Program, the sum of three hundred thousand
16 dollars (\$300,000) shall be used by the Division of Marine Fisheries for an At-Sea Observer
17 Program. This funding is necessary to meet federal requirements to monitor gill net fisheries
18 statewide and record sea turtle and other endangered and threatened species interactions. These
19 funds will support the establishment of three FTE Marine Fisheries Technician II positions for
20 at-sea observer coverage to allow the gill net fisheries to continue as well as enhance the ability
21 of the Division to collect and analyze data necessary to determine the health of fish stock
22 measures such as spawning stock biomass, mortality, recruitment, and sustainable harvest
23 levels that form the basis for all management actions recommended in Fishery Management
24 Plans.

25 26 **TRANSFER CERTAIN ENVIRONMENTAL HEALTH PROGRAMS**

27 **SECTION 12.3.(a)** The following sections of the Division of Environmental
28 Health that support programs implemented through local health departments and programs
29 primarily focused on food safety and other public health concerns are transferred from the
30 Department of Environment and Natural Resources to the Department of Health and Human
31 Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

- 32 (1) Environmental Health Services Section.
- 33 (2) Public Health Pest Management Section.
- 34 (3) On-site Water Protection Section.
- 35 (4) Radiation Protection Section.
- 36 (5) Shellfish Sanitation and Recreational Water Quality Section.
- 37 (6) Office of Education and Training.

38 The Public Water Supply Section shall remain within the Department of
39 Environment and Natural Resources.

40 **SECTION 12.3.(b)** The Revisor of the Statutes shall make the conforming
41 statutory changes necessary to reflect this transfer.

42 **SECTION 12.3.(c)** This transfer is effective July 1, 2010, and funds transferred
43 shall be net of any changes enacted by this act.

44 45 **DAM SAFETY FEE**

46 **SECTION 12.6.** Effective October 1, 2010, a onetime Dam Evaluation Fee of one
47 thousand one hundred dollars (\$1,100) per equivalent dam unit shall be paid to the Department
48 of Environment and Natural Resources by electric utility companies in a lump-sum payment
49 based on the number of dams owned by each company that fall under the jurisdiction of the
50 Dam Safety Law of 1967, Part 3 of Article 21 of Chapter 143 of the General Statutes. Fees
51 collected pursuant to this section shall be used to support onetime limited engineering position

1 and operating funds necessary to perform the evaluation and integration of regulated power
 2 plant dams into the Department's dam safety inventory program. These fees shall remain
 3 available to the Department and shall not revert until the evaluation and integration of regulated
 4 power plants is complete.

5
 6 **AMEND HAZARDOUS WASTE FEE**

7 **SECTION 12.7.** G.S. 130A-294.1(f) reads as rewritten:

8 "(f) A person who generates 100 kilograms or more of hazardous waste in any calendar
 9 month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of
 10 hazardous waste in each calendar month during that year shall pay an annual fee of ~~one~~
 11 ~~hundred twenty-five dollars (\$125.00); one hundred seventy dollars (\$170.00).~~"

12
 13 **PART XIII. DEPARTMENT OF COMMERCE**

14
 15 **JMAC RESERVE**

16 **SECTION 13.1.(a)** G.S. 143B-437.012(b) is repealed.

17 **SECTION 13.1.(b)** Article 9 of Chapter 143C of the General Statutes is amended
 18 by adding a new section to read:

19 **"§ 143C-9-7. JMAC Reserve Fund.**

20 The State Controller shall establish a reserve in the General Fund to be known as the JMAC
 21 Reserve. Funds from the JMAC Reserve shall not be expended or transferred except in
 22 accordance with G.S. 143B-437.012. It is the intent of the General Assembly to appropriate
 23 funds annually to the JMAC Reserve established in this section in amounts sufficient to meet
 24 the anticipated cash requirements for each fiscal year of the Job Maintenance and Capital
 25 Development Program established pursuant to G.S. 143B-437.012."

26
 27 **NER BLOCK GRANTS**

28 **SECTION 13.3.(a)** Appropriations from federal block grant funds are made for the
 29 fiscal year ending June 30, 2011, according to the following schedule:

30
 31 **COMMUNITY DEVELOPMENT BLOCK GRANT**

| | | |
|----|-------------------------------------|--------------|
| 32 | | |
| 33 | 01. State Administration | \$ 1,000,000 |
| 34 | | |
| 35 | 02. Scattered Site Housing | 16,500,000 |
| 36 | | |
| 37 | 03. Economic Development | 7,210,000 |
| 38 | | |
| 39 | 04. Small Business/Entrepreneurship | 3,000,000 |
| 40 | | |
| 41 | 05. NC Catalyst | 8,240,000 |
| 42 | | |
| 43 | 06. State Technical Assistance | 450,000 |
| 44 | | |
| 45 | 07. Infrastructure | 8,000,000 |
| 46 | | |
| 47 | 08. Capacity Building | 600,000 |

48
 49 **TOTAL COMMUNITY DEVELOPMENT**
 50 **BLOCK GRANT – 2011 Program Year** \$ 45,000,000
 51

1 **SECTION 13.3.(b)** Decreases in Federal Fund Availability. – If federal funds are
2 reduced below the amounts specified above after the effective date of this act, then every
3 program in each of these federal block grants shall be reduced by the same percentage as the
4 reduction in federal funds.

5 **SECTION 13.3.(c)** Increases in Federal Fund Availability for Community
6 Development Block Grant. – Any block grant funds appropriated by the Congress of the United
7 States in addition to the funds specified in this section shall be expended as follows: each
8 program category under the Community Development Block Grant shall be increased by the
9 same percentage as the increase in federal funds.

10 **SECTION 13.3.(d)** Limitations on Community Development Block Grant Funds. –
11 Of the funds appropriated in this section for the Community Development Block Grant, the
12 following shall be allocated in each category for each program year: up to one million dollars
13 (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand
14 dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred
15 ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million
16 dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; not less than eight
17 million two hundred forty thousand dollars (\$8,240,000) shall be used for NC Catalyst; up to
18 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up
19 to eight million dollars (\$8,000,000) may be used for Infrastructure; six hundred thousand
20 dollars (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced
21 or increased by the Congress of the United States after the effective date of this act, then these
22 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this
23 section, as applicable.

24 **SECTION 13.3.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to
25 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in
26 partnership with units of local government is an eligible activity under any program category in
27 accordance with federal regulations. Capacity building grants may be made from funds
28 available within program categories, program income, or unobligated funds.

29 **SECTION 13.3.(f)** The Department of Commerce shall report with the Joint
30 Legislative Commission on Governmental Operations prior to reallocating Community
31 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
32 the Director of the Budget finds that:

- 33 (1) A reallocation is required because of an emergency that poses an imminent
34 threat to public health or public safety, the Director of the Budget may
35 authorize the reallocation without consulting the Commission. The
36 Department of Commerce shall report to the Commission on the reallocation
37 no later than 30 days after it was authorized and shall identify in the report
38 the emergency, the type of action taken, and how it was related to the
39 emergency.
- 40 (2) The State will lose federal block grant funds or receive less federal block
41 grant funds in the next fiscal year unless a reallocation is made, the
42 Department of Commerce shall provide a written report to the Commission
43 on the proposed reallocation and shall identify the reason that failure to take
44 action will result in the loss of federal funds. If the Commission does not
45 hear the issue within 30 days of receipt of the report, the Department may
46 take the action without consulting the Commission.

47 **RURAL ECONOMIC DEVELOPMENT CENTER/JOBS NOW FUNDS**

48 **SECTION 13.4.(a)** Of the funds appropriated in this act to the North Carolina
49 Rural Economic Development Center, Inc. (Rural Center), the sum of five million dollars
50 (\$5,000,000) for the 2010-2011 fiscal year shall be used for the following purposes:
51

- 1 (1) Expansion of the Home Grown Jobs Initiative. Three million dollars
2 (\$3,000,000) to strengthen the capacity of rural communities to compete for
3 and attract new and expanding businesses by providing additional funding
4 for the Rural Economic Development Center's Building Reuse and
5 Restoration Program.
- 6 (2) Expansion of the Small Business Assistance Fund. One million dollars
7 (\$1,000,000) to increase small business access to credit as part of the
8 Governor's JobsNOW Small Business Package. The Fund leverages
9 third-party funding to create a loan loss reserve that provides additional
10 guarantees for SBA-backed loans made to eligible small businesses through
11 participating lending institutions.
- 12 (3) Creation of the Family Farm Opportunity and Innovation Fund. One million
13 dollars (\$1,000,000) to develop cost-shared assistance programs to help
14 small family farm businesses improve energy efficiency, access new
15 markets, and develop new value-added products. Funds allocated under this
16 item should be used to leverage maximum additional funding from third
17 parties.

18 Priority for grant funds shall be given to eligible applicants in development tier one areas as
19 defined in G.S. 143B-437.08.

20 **SECTION 13.4.(b)** The Rural Center may use a portion of the funds appropriated
21 in subsection (a) of this section, not to exceed two percent (2%), for administration of the
22 programs for which funds are appropriated in subsection (a) of this section.

23 **SECTION 13.4.(c)** The Rural Center may contract with other agencies and
24 institutions for certain aspects of the programs for which funds are appropriated in subsection
25 (a) of this section, including the design of program guidelines and evaluation of program
26 results.

27 **SECTION 13.4.(d)** The Rural Center shall report to the Joint Legislative
28 Commission of Governmental Operations concerning the progress of the programs for which
29 funds are appropriated in subsection (a) of this section by September 1, 2011.

30 **UPDATE MAIN STREET SOLUTIONS STATUTES**

31 **SECTION 13.5.** Part 15 of Article 10 of Chapter 143B of the General Statutes
32 reads as rewritten:

33 "Part 15. Main Street Solutions.

34 **"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal;
35 repayment; inspections; rules; reports.**

36 (a) A fund to be known as the Main Street Solutions Fund is established in the
37 Department of Commerce. This Fund shall be administered by the Department of Commerce.
38 The Department of Commerce shall be responsible for receipt and disbursement of all funds as
39 provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

40 (b) Definitions. – The following definitions shall apply in this subsection:

41 (1) Designated Micropolitans – Those communities that are selected for
42 participation in the Main Street Solutions Fund Program. The Main Street
43 Solutions Program is an economic development program that provides
44 structured planning and economic development assistance to geographic
45 entities containing an urban core with a population of between 10,000 and
46 50,000 people according to the most recent U.S. Census.

47 (2) Tier Counties – The Department annually ranks the State's 100 counties
48 based on economic well-being and assigns each a Tier designation. The 40
49 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and
50

- 1 the 20 least distressed as Tier 3. North Carolina micropolitans located in Tier
2 2 and Tier 3 counties are eligible for grant funding through this program.
- 3 (3) The Main Street Program – The Main Street Program was developed by the
4 National Trust for Historic Preservation to promote downtown revitalization
5 based on economic development within the context of historic preservation.
6 The Office of Urban Development, under the North Carolina Department of
7 Commerce is the designated agency to administer this program for North
8 Carolina.
- 9 (4) The North Carolina Main Street Center – The North Carolina Main Street
10 Center is located within the North Carolina Department of Commerce,
11 Office of Urban Development, and shall receive applications and make
12 decisions respecting Main Street Solutions Fund grant applications from
13 Eligible Local Governments.
- 14 (5) Designated North Carolina Main Street Communities – Those communities
15 that are selected by the Department for participation in the North Carolina
16 Main Street Program. Designated North Carolina Main Street Communities,
17 including, but not limited to, Small Town Main Street Communities in Tier
18 1, 2, or 3 counties that are designated as active communities and that met the
19 annual reporting responsibilities requirements of the North Carolina Main
20 Street Program to be eligible for participation in the Main Street Solutions
21 Fund.
- 22 (6) Eligible Projects – Strategic projects developed as part of a collaborative
23 process between representatives of the Department of Commerce and the
24 Designated Micropolitan or North Carolina Main Street Community that will
25 strengthen the economy of the municipality and its role as a regional growth
26 and employment hub.
- 27 (7) Designated Downtown Area – A designated area within a community that is
28 considered the primary, traditional downtown business district of its
29 community. A Downtown Core Area may be further defined by a municipal
30 service district or an historic district, or can be clearly delineated through
31 mapping as the primary downtown business district.
- 32 (8) Historic Properties – Properties that have received designation as historically
33 significant, either through the National Register of Historic Places or a local
34 Historic Properties Commission.
- 35 (9) Small Business – An independently owned and operated business with less
36 than 100 employees and with annual revenues less than six million dollars
37 (\$6,000,000).
- 38 (10) Revolving Loan Programs for Private Investment – A property
39 redevelopment or small business assistance fund that is administered on the
40 local level and that may be used to stabilize or appropriately redevelop
41 properties located in the downtown area in connection with private
42 investment, or that may be used to provide necessary operating capital for
43 small business creation or expansion in connection with private investment
44 in a designated downtown area.
- 45 (11) Program – The Main Street Solutions Fund Program and the associated
46 grant.
- 47 (12) Eligible Local Governments – Municipal governmental entities that are
48 located in Designated Micropolitans or Designated North Carolina Main
49 Street Communities.
- 50 (13) Private Investment Projects – A project or a group of projects in a designated
51 downtown area that will spur private investment and improve property.

- 1 Projects must be owned and maintained by the private sector through this
2 program or the grant and must provide a direct benefit to small businesses.
- 3 (14) Public Improvements and Public Infrastructure – The improvement of
4 property or infrastructure that is owned and maintained by the public sector,
5 provided the improvements are necessary to create or stimulate private
6 investment in the designated downtown area, through this program or the
7 grant, with direct benefit to small businesses.
- 8 (15) Mixed-Use Center of Activity – An area zoned and developed for a mix of
9 uses, including retail, service, professional, governmental, institutional, and
10 residential.
- 11 (16) Interlocal Economic Development Projects – A project or a group of projects
12 in a cluster of communities, counties, or a region that share a common
13 economic development strategy for small business growth and job creation.
- 14 (17) Main Street Organizations – Main Street Organizations are defined as
15 agencies working in public-private partnership on the local level, guided by
16 a professional downtown manager and/or a board of directors or
17 revitalization committee, and charged with administering the local Main
18 Street Program initiative and facilitating revitalization initiatives in the
19 traditional downtown business district through appropriate design,
20 promotion, and economic restructuring activities.
- 21 (18) Downtown Organizations – Downtown Organizations are defined as
22 agencies working in public-private partnership on the local level whose core
23 mission is to revitalize the traditional downtown business district.
- 24 (19) Downtown Economic Development Organizations – Downtown Economic
25 Development Organizations are defined as agencies working in
26 public-private partnership to develop and recruit business opportunities or to
27 undertake economic development projects that will create jobs.
- 28 (20) Grant – Monies awarded to eligible grantees for activities that carry out the
29 specific purposes of the Program.
- 30 (c) Purpose of the Program. – The Program's purpose is to provide economic
31 development planning assistance and coordinated grant support to Designated Micropolitans
32 located in Tier 2 and Tier 3 counties and to Designated North Carolina Main Street
33 Communities, including, but not limited to, Small Town Main Street Communities in Tier 1, 2,
34 or 3 counties that are designated as active communities.
- 35 (d) Implementation of the Program. – To achieve the purposes of the Program, the
36 North Carolina Main Street Center will develop criteria for community participation, provide
37 technical assistance, and strategic planning support to eligible communities. Local
38 governments, in collaboration with the Main Street Organization, Downtown Organization,
39 and/or Downtown Economic Development Organization, and the small businesses that will
40 directly benefit from these funds, may apply for grants of monies, as provided herein, to
41 implement elements of a strategic plan developed under the Program.
- 42 (e) Grants Made Under the Program. – Monies in the Main Street Solutions Fund shall
43 be allocated and granted by the Secretary of Commerce through the North Carolina Main Street
44 Center and shall be spent by all grant recipients in accordance with this subsection. Such
45 monies shall be used to implement eligible projects that support a strategic plan for
46 Micropolitan and Main Street Community small business economic development developed
47 with technical assistance from the Department of Commerce.
- 48 ~~(b)~~(f) Funds in the Main Street Solutions Fund shall be available to micropolitan cities in
49 development tier two and three counties in the State. State and/or to designated North Carolina
50 Main Street Communities, including, but not limited to, Small Town Main Street Communities
51 in Tier 1, 2, or 3 counties that are designated as active communities. For purposes of this section,

1 a "micropolitan city" is a city located within the State with a population, according to the most
2 recent U.S. census, of between 10,000 and 50,000 people. Funds in the Main Street Solutions
3 Fund shall be used for any of the following eligible activities:

- 4 (1) ~~The acquisition or rehabilitation of properties in connection with private~~
5 ~~investment in a designated downtown area.~~
- 6 (2) ~~The establishment of revolving loan programs for private investment in a~~
7 ~~designated downtown area.~~
- 8 (3) ~~The subsidization of interest rates for these revolving loan programs.~~
- 9 (4) ~~The establishment of facade incentive grants in connection with private~~
10 ~~investment in a designated downtown area.~~
- 11 (5) ~~Market studies, design studies, design assistance, or strategic planning~~
12 ~~efforts, provided the activity can be shown to lead directly to private~~
13 ~~investment in a designated downtown area.~~
- 14 (6) ~~Any approved project that provides construction or rehabilitation in a~~
15 ~~designated downtown area and can be shown to lead directly to private~~
16 ~~investment in the designated downtown area.~~
- 17 (7) ~~Public improvements and public infrastructure within a designated~~
18 ~~downtown area, provided these improvements are necessary to create or~~
19 ~~stimulate private investment in the designated downtown area.~~

20 (1) Downtown Economic Development Initiatives that:

- 21 a. Encourage the development and/or redevelopment of traditional
22 downtowns in Designated Micropolitans or Designated Main Street
23 Communities by increasing the capacity for Mixed-Use Centers of
24 Activity within Downtown Core Areas. Grants may be made to
25 support the rehabilitation of properties, utility infrastructure
26 improvements, new construction, and the development and/or
27 redevelopment of parking in order to foster private investment and in
28 association with direct benefit to small business retention, expansion
29 or recruitment.
- 30 b. Attract and leverage private sector investments and entrepreneurial
31 growth in downtown areas through strategic planning efforts, market
32 studies, and downtown master plans in association with direct benefit
33 to small business retention, expansion, or recruitment.
- 34 c. Attract and stimulate the growth of business professionals and
35 entrepreneurs within Downtown Core Areas.
- 36 d. Establish Revolving Loan Programs for Private Investment and small
37 business assistance in Downtown Historic Properties in Designated
38 North Carolina Main Street Communities.
- 39 e. Encourage public improvements and public infrastructure within
40 designated downtown areas so as to stimulate private investment and
41 small business retention, expansion, or recruitment in and affecting
42 such areas.
- 43 (2) Historic preservation initiatives outside of Downtown Core Areas that
44 enhance community economic development and small business retention,
45 expansion, or recruitment in Designated Micropolitans or Designated Main
46 Street Communities and regional or community job creation.
- 47 (3) Public improvements and public infrastructure outside of Downtown Core
48 Areas that are consistent with sound municipal planning and that support
49 community economic development, small business retention, expansion or
50 recruitment, and regional or community job creation in Designated
51 Micropolitans or Designated Main Street Communities.

1 (4) Interlocal small business economic development projects designed to
2 enhance regional economic growth and job creation among Designated
3 Micropolitans and Designated Main Street Communities.

4 (5) Worker retraining initiatives designed to support a strategic plan for
5 Designated Metropolitan or Designated Main Street Community small
6 business economic development developed with technical assistance from
7 the Department of Commerce.

8 ~~(e)(g)~~ Any micropolitan city located within a development tier two or three county may
9 apply for assistance from the Main Street Solutions Fund by submitting an application to the
10 Main Street Center in the Division of Community Assistance, Department of Commerce. ~~Any~~
11 ~~city affiliated with the North Carolina Main Street Center Program may apply for a grant for a~~
12 ~~proposed project.~~

13 ~~(e1)(g1)~~ The application shall include each of the following:

14 (1) ~~A copy of the consensus local economic development plan developed by the~~
15 ~~micropolitan city in conjunction with the Department's Main Street Program~~
16 ~~and the city's regional economic development commission or its local~~
17 ~~council of government or both.~~

18 (1a) The proposed activities for which the funds are to be used and the projected
19 cost of the project.

20 (2) The amount of grant funds requested for these activities.

21 (3) Projections of the dollar amount of private investment that is expected to
22 occur in the designated downtown area as a direct result of the city's
23 proposed activities.

24 (4) ~~Whether local public dollars are required to match any grant funds according~~
25 ~~to the provisions of subdivision (g)(2) of this section, and if so, the amount~~
26 ~~of local public funds required.~~

27 (5) An explanation of the nature of the private investment in the designated
28 downtown area that will result from the city's proposed activities.

29 (6) Projections of the time needed to complete the city's proposed activities.

30 (7) Projections of the time needed to realize the private investment that is
31 expected to result from the city's proposed activities.

32 (8) ~~Identification of the proposed source of funds to be used for repayment of~~
33 ~~any loan obligations.~~

34 (9) Any additional or supplemental information requested by the Division.

35 ~~(d) A committee, comprised of representatives of: the Division of Community~~
36 ~~Assistance of the Department of Commerce, the North Carolina Main Street Program, the~~
37 ~~Local Government Commission, and the League of Municipalities shall do each of the~~
38 ~~following:~~

39 (1) ~~Review a city's application.~~

40 (2) ~~Determine whether the activities listed in the application are activities that~~
41 ~~are eligible for a grant.~~

42 (3) ~~Determine which applicants are selected to receive funds from the Main~~
43 ~~Street Solutions Fund.~~

44 (h) A city whose application is denied may file a new or amended application.

45 ~~(e) A Main Street City that is selected may not receive a grant pursuant to this section~~
46 ~~totaling less than twenty thousand dollars (\$20,000) or more than three hundred thousand~~
47 ~~dollars (\$300,000).~~

48 ~~(f)(i)~~ Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

49 ~~(g)(j)~~ (1) A city that has been selected to receive a grant shall use the full amount of
50 the grant for the activities that were approved pursuant to subsection (d) of

1 this section. Funds are deemed used if the city is legally committed to spend
2 the funds on the approved activities.

3 (2) ~~If a city has received approval to use the grant for public improvements or~~
4 ~~public infrastructure, that city shall be required to raise, before funds for~~
5 ~~these public improvements may be drawn from the city's account, local~~
6 ~~public funds to match the amount of the grant from the Main Street~~
7 ~~Solutions Fund on the basis of at least one local public dollar (\$1.00) for~~
8 ~~every one dollar (\$1.00) from the Main Street Solutions Fund. This match~~
9 ~~requirement applies only to those funds received for public improvements or~~
10 ~~public infrastructure and is in addition to the requirement set forth in~~
11 ~~subdivision (1) of this subsection.~~The Main Street Solutions Fund is a
12 reimbursable, matching grant program. The Department of Commerce and
13 the North Carolina Main Street Center are authorized to award grants
14 totaling not more than two hundred thousand dollars (\$200,000) to Eligible
15 Local Governments and the Main Street Organization, Downtown
16 Organization, and/or Downtown Economic Development Organization, and
17 the small businesses that will directly benefit from these funds. Funds from
18 Eligible Local Governments, Main Street Organization, Downtown
19 Organization, and/or Downtown Economic Development Organization, and
20 sources other than the State or federal government must be committed to
21 match the amount of any grant from the Main Street Solutions Fund on the
22 basis of a minimum of two non-State dollars (\$2.00) for every one dollar
23 (\$1.00) provided by the State from the Main Street Solutions Fund.

24 (3) A city that fails to satisfy the condition set forth in subdivision (1) of this
25 subsection shall lose any funds that have not been used within three years of
26 being selected. These unused funds shall be credited to the Main Street
27 Solutions Fund. A city that fails to satisfy the conditions set forth in
28 subdivisions (1) and (2) of this subsection may file a new application.

29 (4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to
30 subdivision (3) of this subsection shall be available to other applicants as
31 long as the Main Street Solutions Fund is in effect.

32 (h) ~~Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.~~

33 ~~(i)(k)~~ After a project financed ~~in whole or in part~~ pursuant to this section has been
34 completed, the city shall report the actual cost of the project to the Department of Commerce. ~~If~~
35 ~~the actual cost of the project exceeds the projected cost upon which the grant was based, the~~
36 ~~city may submit an application to the Department of Commerce for a grant for the difference. If~~
37 ~~the actual cost of the project is less than the projected cost, the city shall arrange to pay the~~
38 ~~difference to the Main Street Solutions Fund according to terms set by the Department.~~

39 ~~(j)(l)~~ Inspection of a project for which a grant has been awarded may be performed by
40 personnel of the Department of Commerce. No person may be approved to perform inspections
41 who is an officer or employee of the unit of local government to which the grant was made or
42 who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the
43 construction of any project for which the grant was made.

44 ~~(k)(m)~~ The Department of Commerce may adopt, modify, and repeal rules establishing the
45 procedures to be followed in the administration of this section and regulations interpreting and
46 applying the provisions of this section, as provided in the Administrative Procedure Act.

47 ~~(l)(n)~~ The Department of Commerce and cities that have been selected to receive a grant
48 from the Main Street Solutions Fund shall prepare and file on or before September 1 of each
49 year with the Joint Legislative Commission on Governmental Operations and the Fiscal
50 Research Division a consolidated report for the preceding fiscal year concerning the allocation
51 of grants authorized by this section.

1 The portion of the annual report prepared by the Department of Commerce shall set forth
2 for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund
3 for grants. The Department of Commerce shall also prepare a summary report of all allocations
4 made from the fund for each fiscal year; the total funds received and allocations made and the
5 total unallocated funds in the Fund.

6 The portion of the report prepared by the city shall include each of the following:

- 7 (1) The total amount of private funds that was committed and the amount that
8 was invested in the designated downtown area during the preceding fiscal
9 year.
- 10 (2) ~~The total amount of local public matching funds that was raised, if required~~
11 ~~by subdivision (g)(2) of this section.~~
- 12 (3) The total amount of grants received from the Main Street Solutions Fund
13 during the preceding fiscal year.
- 14 (4) ~~Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.~~
- 15 (5) A description of how the grant funds and funds from private investors were
16 used during the preceding fiscal year.
- 17 (6) Details regarding the types of private investment created or stimulated, the
18 dates of this activity, the amount of public money involved, and any other
19 pertinent information, including any jobs created, businesses started, and
20 number of jobs retained due to the approved activities.

21 ~~(m)~~(o) The Department of Commerce may use up to fifty thousand dollars (\$50,000) of the
22 funds in the Main Street Solutions Fund for expenses related to the administration of the Fund."
23

24 PART XIV. JUDICIAL DEPARTMENT

25 COLLECTION OF WORTHLESS CHECK FUNDS

26 **SECTION 14.1.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
27 Department may use any balance remaining in the Collection of Worthless Checks Fund on
28 June 30, 2010, for the purchase or repair of office or information technology equipment during
29 the 2010-2011 fiscal year. Prior to using any funds under this section, the Judicial Department
30 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of
31 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public
32 Safety on the equipment to be purchased or repaired and the reasons for the purchases.
33
34

35 INCREASE CERTAIN COURT FEES

36 **SECTION 14.2.(a)** G.S. 7A-304(a)(4) reads as rewritten:

- 37 "(4) For support of the General Court of Justice, the sum of ~~ninety five dollars~~
38 ~~and fifty cents (\$95.50)~~one hundred three dollars and fifty cents (\$103.50) in
39 the district court, including cases before a magistrate, and the sum of ~~one~~
40 ~~hundred two dollars and fifty cents (\$102.50)~~one hundred fifteen dollars and
41 fifty cents (\$115.50) in the superior court, to be remitted to the State
42 Treasurer. For a person convicted of a felony in superior court who has made
43 a first appearance in district court, both the district court and superior court
44 fees shall be assessed. The State Treasurer shall remit the sum of two dollars
45 and five cents (\$2.05) of each fee collected under this subdivision to the
46 North Carolina State Bar for the provision of services described in
47 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this
48 subdivision to the North Carolina State Bar for the provision of services
49 described in G.S. 7A-474.19."

50 **SECTION 14.2.(b)** G.S. 7A-304(a)(6) reads as rewritten:

"(6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of ~~twenty-five dollars (\$25.00)~~fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer."

SECTION 14.2.(c) G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of ~~ninety-three dollars (\$93.00)~~one hundred thirty dollars (\$130.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars (\$1,000) shall be paid upon its assignment, and the sum of ~~seventy-three dollars (\$73.00)~~seventy-eight dollars (\$78.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-five dollars (\$55.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 14.2.(d) G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of ~~seventy-five dollars (\$75.00)~~one hundred dollars (\$100.00) 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, who shall deposit fifty-five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and twenty dollars (\$20.00) to the Domestic Violence Center Fund established under G.S. 50B-9. The remainder shall be deposited in the General Fund as a nontax revenue. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

SECTION 14.2.(e) G.S. 7A-307(b1) reads as rewritten:

"(b1) The clerk shall assess the following miscellaneous fees:

- (1) Filing and indexing a will with no probate
 - first page..... \$ 1.00
 - each additional page or fraction thereof..... .25
- (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- (3) Inventory of safe deposits of a decedent, per box, per day 15.00
- (4) Taking a deposition 10.00
- (5) Docketing and indexing a will probated in another county in the State
 - first page 6.00
 - each additional page or fraction thereof25
- (6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same 8.00
- (7) Assignment of title..... 10.00."

SECTION 14.2.(f) G.S. 7A-305 is amended by adding a new subsection to read:

1 "(a5) For the support of the General Court of Justice, a fee of forty dollars (\$40.00) shall
2 be assessed against a party filing a motion for summary judgment pursuant to G.S. 1A-1, Rule
3 56.

4 Sums collected under this subsection shall be remitted to the State Treasurer."

6 **RECOUP COSTS OF CERTAIN COURT CASES FROM HIGHWAY FUNDS**

7 **SECTION 14.3.** G.S. 7A-300 is amended by adding a new subsection to read:

8 "(c) To defray the expenses associated with the processing of cases initiated by the State
9 Highway Patrol, there shall be transferred monthly from the Highway Fund fifteen dollars
10 (\$15.00) per case for which the State Highway Patrol is the initiating law enforcement agency.
11 These funds shall be transferred to the General Fund for the support of the General Court of
12 Justice. The Administrative Office of the Courts shall provide monthly notification to the
13 Highway Fund of the number of cases initiated by the State Highway Patrol in the preceding
14 month for determination of the amount to be transferred, and the funds shall be transferred no
15 later than 30 days after notification by the Administrative Office of the Courts."

17 **BOND FORFEITURE SET ASIDE PROCESSING FEE**

18 **SECTION 14.4.(a)** G.S. 15A-544.5(c) reads as rewritten:

19 "(c) Procedure When Failure to Appear Is Stricken. – If the court before which a
20 defendant's appearance was secured by a bail bond enters an order striking the defendant's
21 failure to appear and recalling any order for arrest issued for that failure to appear, that court
22 may simultaneously enter an order setting aside any forfeiture of that bail bond. If the court
23 enters an order setting aside a forfeiture of bail bond under this subsection, the court also shall
24 assess a fee against the defendant pursuant to subsection (i) of this section. When an order
25 setting aside a forfeiture is entered, the defendant's further appearances shall continue to be
26 secured by that bail bond unless the court orders otherwise."

27 **SECTION 14.4.(b)** G.S. 15A-544.5 is amended by adding a new subsection to
28 read:

29 "(i) Fee. – If the court enters an order to set aside a forfeiture of bail bond pursuant to
30 subsection (c) of this section, the court shall, upon conviction, impose a processing fee of fifty
31 dollars (\$50.00) against the defendant, if the notice of forfeiture was given pursuant to
32 G.S. 15A-544.4 prior to entry of the order setting the forfeiture aside. Upon a showing to the
33 court that the failure to appear underlying the forfeiture was due to an error or omission of a
34 judicial official, a prosecutor, or a law enforcement officer, or that the forfeiture was otherwise
35 issued in error, the court shall waive this fee. The fee shall be collected in addition to other
36 costs as provided in G.S. 7A-304(c) and shall be remitted to the State Treasurer to be used for
37 support of the General Court of Justice."

39 **PART XV. DEPARTMENT OF JUSTICE**

41 **SAFE COMMUNITIES: FELONY ARRESTEE DNA FORENSIC STAFFING &** 42 **OPERATIONS**

43 **SECTION 15.1.** G.S. 7A-304(a) is amended by adding a new subdivision to read:

44 "(3c) For the scientific analysis of DNA and bodily fluids and associated services,
45 staffing and operations of the North Carolina State Bureau of Investigation
46 Crime Laboratory, the sum of three dollars (\$3.00) shall be remitted to the
47 Department of Justice."

49 **SEAT BELT USE MANDATORY**

50 **SECTION 15.2.** G.S. 20-135.2A(e) reads as rewritten:

1 "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this
2 section shall have committed an infraction and shall pay a penalty of twenty-five dollars and
3 fifty cents (\$25.50) plus the following court costs: the General Court of Justice fee provided
4 for in G.S. 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), ~~and~~
5 the law enforcement training and certification fee provided for in
6 ~~G.S. 7A-304(a)(3b)~~ G.S. 7A-304(a)(3b), and the scientific analysis of DNA and bodily fluids
7 fee provided for in G.S. 7A-304(a)(3c). Any rear seat occupant of a vehicle who fails to wear a
8 seat belt as required by this section shall have committed an infraction and shall pay a penalty
9 of ten dollars (\$10.00) and no court costs. Court costs assessed under this section are for the
10 support of the General Court of Justice and shall be remitted to the State Treasurer. Conviction
11 of an infraction under this section has no other consequence."
12

13 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY** 14 **PREVENTION**

15 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

16 **SECTION 16.1.** Section 18.1 of S.L. 2009-451 reads as rewritten:

17 **"SECTION 18.1.** The Department of Juvenile Justice and Delinquency Prevention shall
18 conduct an evaluation of the Eckerd ~~and Camp Woodson~~-wilderness camp ~~programs~~program
19 and of multipurpose group homes.
20

21 In conducting the evaluation of each of these programs, the Department shall consider
22 whether participation in each program results in a reduction of court involvement among
23 juveniles. The Department also shall identify whether the programs are achieving the goals and
24 objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the
25 results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile
26 Justice Oversight Committee, the chairs of the Senate and House of Representatives
27 Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety
28 of the Senate and House of Representatives Appropriations Committees by March 1 of each
29 year."
30

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

32 **SECTION 16.2.** Funds appropriated in this act to the Department of Juvenile
33 Justice and Delinquency Prevention for the 2010-2011 fiscal year may be used as matching
34 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives
35 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office
36 of State Budget and Management and the Governor's Crime Commission shall consult with the
37 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding
38 federal funds. The Office of State Budget and Management, the Governor's Crime
39 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report
40 to the Appropriations Committees of the Senate and House of Representatives and the Joint
41 Legislative Commission on Governmental Operations prior to allocation of the federal funds.
42 The report shall identify the amount of funds to be received for the 2010-2011 fiscal year, the
43 amount of funds anticipated for the 2010-2011 fiscal year, and the allocation of funds by
44 program and purpose.
45

46 **REPEAL TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT** 47 **CENTERS**

48 **SECTION 16.3.** Section 18.4 of S.L. 2009-451 is repealed.
49

50 **PART XVII. DEPARTMENT OF CORRECTION** 51

1 USE OF CLOSED PRISON FACILITIES

2 **SECTION 17.1.** Section 19.4(a) of S.L. 2009-451 is repealed.

4 FEDERAL GRANT MATCHING FUNDS

5 **SECTION 17.2.** Notwithstanding the provisions of G.S. 143C-6-9, the Department
6 of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)
7 during the 2010-2011 fiscal year from funds available to the Department to provide the State
8 match needed in order to receive federal grant funds. Prior to using funds for this purpose, the
9 Department shall report to the chairs of the House of Representatives and Senate
10 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
11 Commission on Governmental Operations on the grants to be matched using these funds.

13 REPORTS ON NONPROFIT PROGRAMS

14 **SECTION 17.3.** Section 19.10 of S.L. 2009-451 is repealed.

16 INCREASE FEE FOR COMMUNITY SERVICE WORK PROGRAM

17 **SECTION 17.4.(a)** G.S. 143B-262.4(b) reads as rewritten:

18 "(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~ three hundred dollars (\$300.00)
19 shall be paid by all persons who participate in the program or receive services from the
20 program staff. Only one fee may be assessed for each sentencing transaction, even if the person
21 is assigned to the program on more than one occasion, or while on deferred prosecution, or
22 while serving a sentence for the offense. A sentencing transaction shall include all offenses
23 considered and adjudicated during the same term of court. Fees collected pursuant to this
24 subsection shall be deposited in the General Fund. If the person is convicted in a court in this
25 State, the fee shall be paid to the clerk of court in the county in which the person is convicted,
26 regardless of whether the person is participating in the program as a condition of probation
27 imposed by the court or pursuant to the exercise of authority delegated to the probation officer
28 pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of
29 a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the
30 county in which the agreement is filed. If the person is participating in the program as a
31 condition of parole, the fee shall be paid to the clerk of the county in which the person is
32 released on parole. Persons participating in the program for any other reason shall pay the fee
33 to the clerk of court in the county in which the services are provided by the program staff. The
34 fee shall be paid in full before the person may participate in the community service program,
35 except that:

- 36 (1) A person convicted in a court in this State may be given an extension of time
37 or allowed to begin the community service before the person pays the fee by
38 the court in which the person is convicted; or
- 39 (2) A person performing community service pursuant to a deferred prosecution
40 or similar agreement may be given an extension of time or allowed to begin
41 community service before the fee is paid by the official or agency
42 representing the State in the agreement.
- 43 (3) A person performing community service as a condition of parole may be
44 given an extension of time to pay the fee by the Post-Release Supervision
45 and Parole Commission. No person shall be required to pay the fee before
46 beginning the community service unless the Commission orders the person
47 to do so in writing.
- 48 (4) A person performing community service as ordered by a probation officer
49 pursuant to authority delegated by G.S. 15A-1343.2 may be given an
50 extension of time to pay the fee by the probation officer exercising the
51 delegated authority."

1 **SECTION 17.4.(d)** This section applies to persons ordered on or after July 1, 2010,
2 to perform community service.

3
4 **INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE**
5 **SUPERVISION**

6 **SECTION 17.5.(a)** G.S. 15A-1343(c1) reads as rewritten:

7 "(c1) Supervision Fee. – Any person placed on supervised probation pursuant to
8 subsection (a) of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars
9 (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying
10 the fee only for good cause and upon motion of the person placed on supervised probation. No
11 person shall be required to pay more than one supervision fee per month. The court may require
12 that the fee be paid in advance or in a lump sum or sums, and a probation officer may require
13 payment by such methods if he is authorized by subsection (g) to determine the payment
14 schedule. Supervision fees must be paid to the clerk of court for the county in which the
15 judgment was entered or the deferred prosecution agreement was filed. Fees collected under
16 this subsection shall be transmitted to the State for deposit into the State's General Fund."

17 **SECTION 17.5.(b)** G.S. 15A-1374(c) reads as rewritten:

18 "(c) Supervision Fee. – The Commission must require as a condition of parole that the
19 parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) per month. The
20 Commission may exempt a parolee from this condition of parole only if it finds that requiring
21 him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk
22 of superior court of the county in which the parolee was convicted. The clerk must transmit any
23 money collected pursuant to this subsection to the State to be deposited in the general fund of
24 the State. In no event shall a person released on parole be required to pay more than one
25 supervision fee per month."

26 **SECTION 17.5.(c)** G.S. 15A-1368.4(f) reads as rewritten:

27 "(f) Required Supervision Fee. – The Commission shall require as a condition of
28 post-release supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty
29 dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only
30 if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid
31 to the clerk of superior court of the county in which the supervisee was convicted. The clerk
32 shall transmit any money collected pursuant to this subsection to the State to be deposited in the
33 State's General Fund. In no event shall a supervisee be required to pay more than one
34 supervision fee per month."

35 **SECTION 17.5.(d)** This section shall become effective July 1, 2010, and shall
36 apply to all persons on supervised probation, parole, and post-release prior to that date and to
37 all persons placed on supervised probation, parole, and post-release on or after that date.

38
39 **INMATE MEDICAL COST CONTAINMENT**

40 **SECTION 17.6.(a)** The Department of Correction shall establish a fee schedule for
41 health care services provided to those inmates committed to its custody. The fee schedule will
42 represent one hundred thirty percent (130%) of the reimbursable cost for each service under the
43 Medicare Fee Schedule. Providers and facilities that deliver medically necessary services to
44 inmates in the Department's custody shall be paid in accordance with the fee schedule
45 established under the terms of this subsection. The requirements of this subsection shall apply
46 to all medical and facility services provided outside the correctional facility, including
47 hospitalizations, professional services, medical supplies, and other medications provided to any
48 inmate confined in a correctional facility.

49 **SECTION 17.6.(b)** The Department of Correction shall make every effort to
50 contain inmate medical costs by making use of its own hospital and health care facilities to
51 provide health care services to inmates. To the extent that the Department of Correction must

1 utilize other facilities and services to provide health care services to inmates, the Department
2 shall make use of hospitals with available capacity or other health care facilities in a region to
3 accomplish that goal. The Department shall work to ensure that care usage is distributed
4 equitably among all hospitals or other appropriate health care facilities, with no one health care
5 facility being required to admit more than twenty percent (20%) of all patients requiring
6 hospitalization or hospital services, unless doing so would jeopardize the health of the inmate.
7 The Department shall also give preference to those hospitals in the same county or an adjoining
8 county to the correctional facility where an inmate requiring hospitalization is incarcerated.

9 **SECTION 17.6.(c)** The Department of Correction shall consult with the Division
10 of Medical Assistance in the Department of Health and Human Services to develop protocols
11 for prisoners who would otherwise be eligible for Medicaid if they were not incarcerated to
12 access Medicaid while in custody or under extended limits of confinement. The Department
13 shall seek reimbursement from Medicaid for those health care costs incurred by the Department
14 in those instances when an inmate has had his or her Medicaid eligibility temporarily reinstated
15 due to a hospitalization.

16 **SECTION 17.6.(d)** The Department of Correction, in consultation with the Office
17 of State Budget and Management, shall study the impact on inmate medical costs resulting
18 from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall
19 present its findings by March 1, 2011, to the chairs of the House of Representatives and Senate
20 Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative
21 Corrections, Crime Control, and Juvenile Justice Oversight Committee.

22 **SECTION 17.6.(e)** If the findings of the Department of Correction demonstrate
23 that the Department has been unable to achieve the savings in inmate medical costs called for in
24 the 2010-2011 budget, the Office of State Budget and Management is authorized to require that
25 any hospital that provides health care services to Medicaid and Medicare patients must also
26 provide services to any inmate confined in a correctional facility at the rates applicable under
27 subsection (a) of this section.

28 **SECTION 17.6.(f)** The Department of Correction shall make every effort to
29 explore other cost containment methods not expressly outlined in this section. These methods
30 may included but are not limited to the following: contracting with a private third party to
31 manage and provide all inmate medical services; partnering with the federal government to
32 allow for treatment of state inmates in federal correctional hospitals; and purchasing a fixed
33 number of beds at a hospital.

34 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

35 **SMALL BUSINESS PROTECTION ACT**

36 **SECTION 18.1.** Section 28.16.(g) of S.L. 2008-107 is repealed.

37 **PART XIX. DEPARTMENT OF REVENUE**

38 **DISTRIBUTION OF ADDITIONAL TAXES**

39 **SECTION 19.1.** G.S. 105-501 reads as rewritten:

40 **"§ 105-501. (Effective October 1, 2009) Distribution of additional taxes.**

41 (a) Method. – The Secretary must, on a monthly basis, allocate to each taxing county
42 the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that
43 county under this Article. If the Secretary collects taxes under this Article in a month and the
44 taxes cannot be identified as being attributable to a particular taxing county, the Secretary must
45 allocate the net proceeds of these taxes among the taxing counties in proportion to the amount
46 of taxes collected in each county under this Article in that month.

1 The Secretary must divide and distribute the funds allocated to a taxing county each month
 2 under this section between the county and the municipalities located in the county in
 3 accordance with the method by which the one percent (1%) sales and use taxes levied in that
 4 county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are
 5 distributed. No municipality may receive any funds under this section if it was incorporated
 6 with an effective date of on or after January 1, 2000, and is disqualified from receiving funds
 7 under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated
 8 with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets
 9 are open to the public.

10 (b) Deductions. – In determining the net proceeds of the tax to be distributed, the
 11 Secretary must deduct from the collections to be allocated ~~an amount equal to one-twelfth of~~
 12 ~~the costs during the preceding fiscal year of:~~ the following amounts:

13 (1) ~~The Department of Revenue in performing the duties imposed by~~
 14 ~~G.S. 105-275.2 and by Article 15 of this Chapter.~~ An amount equal to
 15 one-twelfth of the cost during the preceding year of the following:

16 ~~(1a)~~ a. Seventy percent (70%) of the expenses of the Department of
 17 Revenue in performing the duties imposed by Article 2D of this
 18 Chapter.

19 ~~(2)~~ ~~The Property Tax Commission.~~

20 ~~(3)~~ b. The School of Government at the University of North Carolina at
 21 Chapel Hill in operating a training program in property tax appraisal
 22 and assessment.

23 ~~(4)~~ c. The personnel and operations provided by the Department of State
 24 Treasurer for the Local Government Commission.

25 (2) An amount equal to the cost during the preceding month of the following:

26 a. The Department of Revenue in performing the duties imposed by
 27 Article 15 of this Chapter.

28 b. The Property Tax Commission

29 For fiscal year 2010-2011, the deductions under G.S. 105-501(b) include one-twelfth of the
 30 costs during the preceding fiscal year."

31 32 **PART XX. OFFICE OF THE GOVERNOR**

33 34 **TRANSFER OF YOUTH ADVOCACY AND INVOLVEMENT FUNCTIONS TO THE** 35 **OFFICE OF THE GOVERNOR AND THE STATE BOARD OF EDUCATION**

36 **SECTION 20.1.(a)** Effective July 1, 2010, the State Youth Advisory Council, the
 37 State Youth Council, the Governor's Advocacy Council on Children and Youth, the North
 38 Carolina Internship Council, and the North Carolina Youth Advocacy and Involvement Fund
 39 are hereby transferred by a Type I transfer, as defined in G.S. 143B-385, 143B-387, 143B-414,
 40 143B-417, and 143B 387.1, from the Department of Administration to the Office of the
 41 Governor. The program transfer shall include the sum of five hundred five thousand two
 42 hundred eighty-four dollars (\$505,284) and five positions.

43 **SECTION 20.1.(b)** Effective July 1, 2010, the Students Against Destructive
 44 Decisions program is hereby transferred by a Type I transfer from the Department of
 45 Administration to the State Board of Education. The program transfer shall include the sum of
 46 one hundred thirteen thousand eight hundred fifty-three dollars (\$113,853) and two positions.

47 **SECTION 20.1.(c)** G.S. 143B-385 reads as rewritten:

48 "**§ 143B-385. State Youth Advisory Council – creation; powers and duties.**

49 There is hereby created the State Youth Advisory Council of the ~~Department of~~
 50 ~~Administration.~~ Office of the Governor. The State Youth Advisory Council shall have the
 51 following functions and duties:

- 1 (1) To advise the youth councils of North Carolina;
- 2 (2) To encourage State and local councils to take active part in governmental
- 3 and civic affairs, promote and participate in leadership and citizenship
- 4 programs, and cooperate with other youth-oriented groups;
- 5 (3) To receive on behalf of the ~~Department of Administration~~ Office of the
- 6 Governor and to recommend expenditure of gifts and grants from public and
- 7 private donors;
- 8 (4) To establish procedures for the election of its youth representatives by the
- 9 State Youth Council; and
- 10 (5) To advise the ~~Secretary of Administration~~ Governor's Chief of Staff upon
- 11 any matter the ~~Secretary~~ Governor may refer to it."

12 **SECTION 20.1.(d)** G.S. 143B-387.1 reads as rewritten:

13 **"§ 143B-387.1. North Carolina Youth Advocacy and Involvement Fund.**

14 The North Carolina Youth Advocacy and Involvement Fund is created as a special and

15 nonreverting fund. Conference registration fees, gifts, donations, or contributions to or for the

16 North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against

17 Destructive Decisions (SADD) programs shall be credited to the Fund.

18 The Fund shall be used solely to support planning and execution of the YLA and SADD

19 programs. The ~~Department~~ Office of the Governor shall maintain separate cost centers for each

20 ~~program-program~~ and transfer funds to the State Board of Education for administration of the

21 SADD program as necessary."

22 **SECTION 20.1.(e)** G.S. 143B-414 reads as rewritten:

23 **"§ 143B-414. Governor's Advisory Council on Children and Youth – creation; powers**

24 **and duties.**

25 There is hereby created the Governor's Advocacy Council on Children and Youth of the

26 ~~Department of Administration~~ Office of the Governor. The Council shall have the following

27 functions and duties:

- 28 (1) To act as an advocate for children and youth within State and local
- 29 governments, and with private agencies serving children and youth;
- 30 (2) To provide assistance in the development and coordination of child
- 31 advocacy systems at the regional and local levels within the State;
- 32 (3) To perform a continuing review of existing programs of State government
- 33 for children and youth and their families;
- 34 (4) To, in cooperation with State, local or private agencies, identify needs of
- 35 children and youth and their families that are not currently being met and
- 36 recommend new programs or improvement of existing programs;
- 37 (5) To review any new programs affecting children and youth proposed by any
- 38 State agency and recommend changes to avoid duplication of services, to
- 39 promote better planning, or otherwise to make more effective use of
- 40 available resources;
- 41 (6) To meet at least annually with the Governor and present a written report
- 42 concerning the health and well-being of North Carolina's children and the
- 43 effectiveness of current programs and the need for new programs for
- 44 children and youth;
- 45 (7) To provide information to the general public and State, local and private
- 46 agencies serving children and youth and their families concerning the
- 47 activities and findings of the Council; and
- 48 (8) To perform other advisory functions assigned by the ~~Secretary of~~
- 49 ~~Administration~~ Governor's Chief of Staff or a legislative committee."

50 **SECTION 20.1.(f)** G.S. 143B-417 reads as rewritten:

51 **"§ 143B-417. North Carolina Internship Council – creation; powers and duties.**

1 There is hereby created the North Carolina Internship Council of the ~~Department of~~
2 ~~Administration.~~Office of the Governor. The North Carolina Internship Council shall have the
3 following functions and duties:

- 4 (1) To determine the number of student interns to be allocated to each of the
5 following offices or departments:
6 a. Office of the Governor
7 b. Department of Administration
8 c. Department of Correction
9 d. Department of Cultural Resources
10 e. Department of Revenue
11 f. Department of Transportation
12 g. Department of Environment and Natural Resources
13 h. Department of Commerce
14 i. Department of Crime Control and Public Safety
15 j. Department of Health and Human Services
16 k. Office of the Lieutenant Governor
17 l. Office of the Secretary of State
18 m. Office of the State Auditor
19 n. Office of the State Treasurer
20 o. Department of Public Instruction
21 p. Repealed by Session Laws 1985, c. 757, s. 162.
22 q. Department of Agriculture and Consumer Services
23 r. Department of Labor
24 s. Department of Insurance
25 t. Office of the Speaker of the House of Representatives
26 u. Justices of the Supreme Court and Judges of the Court of Appeals
27 v. Community Colleges System Office
28 w. Office of State Personnel
29 x. Office of the Senate President Pro Tempore
30 y. Department of Juvenile Justice and Delinquency Prevention
31 z. Administrative Office of the Courts
32 aa. State Ethics Commission
33 bb. Employment Security Commission
34 cc. State Board of Elections
35 dd. Department of Justice
36 (2) To screen applications for student internships and select from these
37 applications the recipients of student internships; and
38 (3) To determine the appropriateness of proposals for projects for student interns
39 submitted by the offices and departments enumerated in subdivision (1) of
40 this section."
41

42 **AMEND NORTH CAROLINA HOUSING FINANCE AGENCY STATUTE**

43 **SECTION 20.2.(a)** G.S.122A-2 reads as rewritten:

44 **"§ 122A-2. Legislative findings and purposes.**

45 The General Assembly hereby finds and declares that as a result of the spread of slum
46 conditions and blight to formerly sound urban and rural neighborhoods and as a result of
47 actions involving highways, public facilities and urban renewal activities there exists in the
48 State of North Carolina a serious shortage of decent, safe and sanitary residential housing
49 available at low prices or rentals to persons and families of lower income. This shortage is
50 severe in certain urban areas of the State, is especially critical in the rural areas, and is inimical

1 to the health, safety, welfare and prosperity of all residents of the State and to the sound growth
2 of North Carolina communities.

3 The General Assembly hereby finds and declares further that private enterprise and
4 investment have not been able to produce, without assistance, the needed construction of
5 decent, safe and sanitary residential housing at low prices or rentals which persons and families
6 of lower income can afford, or to achieve the urgently needed rehabilitation of much of the
7 present lower income housing. It is imperative that the supply of residential housing for persons
8 and families of lower income affected by the spread of slum conditions and blight and for
9 persons and families of lower income displaced by public actions or natural disaster be
10 increased; and that private enterprise and investment be encouraged to sponsor, build and
11 rehabilitate residential housing for such persons and families, to help prevent the recurrence of
12 slum conditions and blight and assist in their permanent elimination throughout North Carolina.

13 The General Assembly hereby finds and declares further that the purposes of this Chapter
14 are to provide financing for residential housing construction, new or rehabilitated, for sale or
15 rental to persons and families of lower income.

16 The General Assembly hereby finds and declares further that in accomplishing this purpose,
17 the North Carolina Housing Finance Agency, a public ~~agency~~ corporation and an
18 instrumentality of the State, is acting in all respects for the benefit of the people of the State in
19 the performance of essential public functions and serves a public purpose in improving and
20 otherwise promoting their health, welfare and prosperity, and that the North Carolina Housing
21 Finance Agency, is empowered to act on behalf of the State of North Carolina and its people in
22 serving this public purpose for the benefit of the general public.

23 The General Assembly hereby further finds and declares that it shall be the policy of said
24 Agency, whenever feasible, to give first priority in its programs to assisting persons and
25 families of lower income in the purchase and rehabilitation of residential housing, and to
26 undertake its programs in the areas where the greatest housing need exists, and to give priority
27 to projects and individual units which conform to sound principles and practices of
28 comprehensive land use and environmental planning, regional development planning and
29 transportation planning as established by units of local government and regional organizations
30 having jurisdiction over the area within which such projects and units are to be located if such
31 government agencies exist in an area under consideration. However, no area of need shall be
32 penalized because government planning agencies do not exist in such areas.

33 The General Assembly hereby also further finds and declares that private enterprise and
34 investment have not been able to provide, without assistance, the needed installation of energy
35 saving materials in owner occupied residences of persons and families of lower income. It is
36 imperative for the health, safety and welfare of these persons and the general public that their
37 residences be suitably heated at affordable cost in order to provide decent housing; and that the
38 consumption of nonrenewable sources of energy be reduced. Therefore, the General Assembly
39 finds that one of the purposes of this Chapter is to assist persons and families of lower income
40 to obtain loans for the purpose of heating their homes at affordable cost and at the same time to
41 significantly reduce the amount of consumption of nonrenewable sources of energy."

42 **SECTION 20.2.(b)** G.S.122A-4(a) reads as rewritten:

43 "(a) There is hereby created a body politic and corporate to be known as "North Carolina
44 Housing Finance Agency" which shall be constituted a public ~~agency~~ corporation of the State,
45 having a distinct legal existence from the State, with the politic and corporate powers as are set
46 forth in this Chapter. The corporation is constituted a public and an instrumentality of the State
47 for the performance of essential public functions, and the corporation is vested with all of the
48 powers, authority, rights, privileges, and titles that may be necessary to enable it to accomplish
49 its purposes under this chapter. The powers conferred by this Chapter shall be deemed and held
50 to be the performance of an essential government function of the State."

1 **PART XXI. DEPARTMENT OF TRANSPORTATION**2
3 **MOBILITY FUND ESTABLISHED**4 **SECTION 21.1.(a)** Chapter 136 of the General Statutes is amended by adding a
5 new Article to read:6 "Article 14A.7 "North Carolina Mobility Fund.8 **"§136-181.1. Creation of the North Carolina Mobility Fund within the Highway Trust**
9 **Fund.**10 (a) A special account designated as the North Carolina Mobility Fund is hereby created
11 within the North Carolina Highway Trust Fund within the State treasury, to which certain
12 Highway Use Tax proceeds and certain registration fees shall be deposited. This account shall
13 be held separate and apart from funds deposited to the Highway Trust Fund pursuant to
14 G.S. 136-176(a). The amounts deposited to the North Carolina Mobility Fund shall be
15 deposited, applied, and used as provided in this Article, notwithstanding any provision of
16 Article 14 to the contrary. Notwithstanding any other provision of law, the provisions of
17 G.S. 136-17.2A shall not apply to the application of the North Carolina Mobility Fund.18 (b) Amounts deposited in the North Carolina Mobility Fund are to be appropriated as
19 follows:

- 20 (1)
- There shall be appropriated an amount equal to six and one-half percent (6
-
- 21
- ½%) of the amount collected annually to be used for distribution in
-
- 22
- accordance with G.S.136-41.1.
-
- 23 (2)
- There shall be appropriated to the Department of Transportation the sum of
-
- 24
- thirty million dollars (\$30,000,000) annually to be used for interstate route
-
- 25
- maintenance and preservation.
-
- 26 (3)
- Of the funds remaining in the account, the Department of Transportation
-
- 27
- shall fund transportation projects to relieve congestion and enhance mobility.
-
- 28 (4)
- The Department may issue debt-financing instruments to finance highway
-
- 29
- projects using North Carolina Mobility Fund fee revenue equal to the
-
- 30
- amount allocated in this section to expedite the delivery of strategic
-
- 31
- congestion and mobility projects. These bonds shall be issued by the State
-
- 32
- Treasurer on behalf of the Department and shall be issued pursuant to an
-
- 33
- order adopted by the Council of State under G.S. 159-88. The State
-
- 34
- Treasurer shall develop and adopt appropriate debt instruments, consistent
-
- 35
- with the terms of the State and Local Government Revenue Bond Act,
-
- 36
- Article 5 of Chapter 159 of the General Statutes, for use under this
-
- 37
- subdivision. Notes issued under the provisions of this subdivision may not
-
- 38
- be deemed to constitute a debt or liability of the State or of any political
-
- 39
- subdivision thereof, or a pledge of the full faith and credit of the State or of
-
- 40
- any political subdivision thereof, but shall be payable solely from the funds
-
- 41
- and revenues pledged therefor. All the notes shall contain on their face a
-
- 42
- statement to the effect that the State of North Carolina shall not be obligated
-
- 43
- to pay the principal or the interest on the notes, except from the North
-
- 44
- Carolina Mobility Fund fee revenues as shall be provided by the documents
-
- 45
- governing the revenue note issuance, and that neither the faith and credit nor
-
- 46
- the taxing power of the State of North Carolina or any of its political
-
- 47
- subdivisions is pledged to the payment of the principal or interest on the
-
- 48
- notes. The issuance of notes under this section shall not directly or indirectly
-
- 49
- or contingently obligate the State or any of its political subdivisions to levy
-
- 50
- or to pledge any form of taxation whatever or to make any appropriation for
-
- 51
- their payment.

1 (c) The initial project funded from this North Carolina Mobility Fund shall be the
2 widening and improvement of Interstate 85 north of the Yadkin River Bridge.

3 (d) Projects to relieve congestion and enhance mobility which are funded pursuant to
4 subdivision (b)(3) of this section shall be selected by the Department using a selection process.
5 By January 1, 2012, the Department shall develop a project criteria and selection process
6 through stakeholder and public involvement that shall include, but not be limited to, the North
7 Carolina Association of Municipal Planning Organizations, the North Carolina Association of
8 Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina
9 Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and
10 the North Carolina Council of Regional Governments. The Department shall report quarterly to
11 the Governor and the General Assembly on its progress and present a final report prior to
12 approval by the Board of Transportation."

13 **SECTION 21.1.(b)** The provisions of Chapter 692, section 8.4 of the 1989 Session
14 Laws, as amended by Chapter 590, section 7 of the 1995 Session Laws, and as further amended
15 by Session Laws 1999-380, section 3, regarding the repeal of the Highway Trust Fund upon the
16 occurrence of the events described therein shall not apply to the North Carolina Mobility Fund
17 created hereunder or the deposit of funds thereto. Nothing contained in this section shall
18 otherwise restrict or prohibit the General Assembly from repealing any provision hereof.

19 **SECTION 21.1.(c)** G.S. 105-187.3(a) reads as rewritten:

20 "(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of
21 the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as
22 provided in G.S. 105-187.4. The maximum tax is ~~one thousand dollars (\$1,000)~~ one thousand
23 five hundred dollars (\$1,500) for each certificate of title issued for a Class A or Class B motor
24 vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is
25 one thousand five hundred dollars (\$1,500) for each certificate of title issued for a recreational
26 vehicle that is not subject to the ~~one thousand dollar (\$1,000)~~ one thousand five hundred dollars
27 (\$1,500) maximum tax."

28 **SECTION 21.1.(d)** G.S. 105-187.3(b) reads as rewritten:

29 "(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is
30 issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle,
31 including all accessories attached to the vehicle when it is delivered to the ~~purchaser, less the~~
32 ~~amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or~~
33 ~~partial payment for the purchased motor vehicle.~~ purchaser. The retail value of a motor vehicle
34 for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is
35 not a retailer is the market value of the ~~vehicle, less the amount of any allowance given by the~~
36 ~~seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor~~
37 ~~vehicle.~~ vehicle. A transaction in which two parties exchange motor vehicles is considered a
38 sale regardless of whether either party gives additional consideration as part of the transaction.
39 The retail value of a motor vehicle for which a certificate of title is issued because of a reason
40 other than the sale of the motor vehicle is the market value of the vehicle. The market value of
41 a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the
42 Commissioner."

43 **SECTION 21.1.(e)** G.S. 105-187.6(c) is repealed.

44 **SECTION 21.1.(f)** G.S. 105-187.9(a) reads as rewritten:

45 "(a) Distribution. – ~~Taxes~~ Unless subsection (a1) of this section requires a different
46 disposition, all taxes collected under this Article at the rate of eight percent (8%) shall be
47 credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%)
48 shall be credited to the North Carolina Highway Trust Fund, the North Carolina Highway Trust
49 Fund and the North Carolina Mobility Fund. Of the tax collected under this Article at the rate
50 of three percent (3%), eighty-six percent (86%) shall be credited to the North Carolina
51 Highway Trust Fund and fourteen percent (14%) shall be credited to the North Carolina

Mobility Fund. Of the tax collected under this Article at the rate of eight percent (8%), the entire collection shall be credited to the North Carolina Mobility Fund."

SECTION 21.1.(f1) G.S. 105-187.9 is amended by adding a new subsection to read:

"(a1) For the 2011-2012 fiscal year, fifty percent (50%) of the taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. The remaining taxes collected under this Article shall be credited in accordance with subsection (a) of this section."

SECTION 21.1.(g) G.S. 20-7(i) reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

| <u>Class of Regular License</u> | <u>Fee For Each Year</u> |
|---------------------------------|--------------------------|
| Class A | \$4.00 |
| Class B | \$4.00 |
| Class C | \$4.00 |

The fee for a motorcycle endorsement is ~~one dollar and seventy five cents (\$1.74)~~ two dollars (\$2.00) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement. Twenty-five percent (25%) of all motorcycle endorsement fees collected pursuant to this subsection shall be credited by the Division to the North Carolina Mobility Fund."

SECTION 21.1.(h) G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record, for period up to three years ~~\$8.00~~\$10.00
- (2) Complete extract copy of license record ~~8.00~~10.00
- (3) Certified true copy of complete license record ~~11.00~~13.00

Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited by the Division to the North Carolina Mobility Fund. All remaining fees received by the Division under this subsection shall be credited to the Highway Fund."

SECTION 21.1.(i) G.S. 20-50(b) reads as rewritten:

"(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is ~~five dollars (\$5.00)~~ seven dollars (\$7.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

- (1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
- (2) It expires on midnight of the day set for expiration.

- 1 (3) It may be used only on the vehicle for which issued and may not be
- 2 transferred, loaned, or assigned to another.
- 3 (4) If it is lost or stolen, the person who applied for it must notify the Division.
- 4 (5) It may not be issued by a dealer.
- 5 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license
- 6 plates apply to temporary license plates insofar as possible.

7 Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited
8 by the Division to the North Carolina Mobility Fund."

9 **SECTION 21.1.(j)** G.S. 20-85 (a) and (b) read as rewritten:

10 "(a) The following fees are imposed concerning a certificate of title, a registration card,
11 or a registration plate for a motor vehicle. These fees are payable to the Division and are in
12 addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- 13 (1) Each application for certificate of title..... \$40.00
- 14 (2) Each application for duplicate or corrected certificate of
- 15 title ~~15.00~~20.00
- 16 (3) Each application of reposessor for certificate of title ~~15.00~~20.00
- 17 (4) Each transfer of registration ~~15.00~~20.00
- 18 (5) Each set of replacement registration plates ~~15.00~~20.00
- 19 (6) Each application for duplicate registration card..... ~~15.00~~20.00
- 20 (7) Each application for recording supplementary lien ~~15.00~~20.00
- 21 (8) Each application for removing a lien from a certificate of
- 22 title ~~15.00~~20.00
- 23 (9) Each application for certificate of title for a motor vehicle
- 24 transferred to a manufacturer, as defined in G.S. 20-286, or
- 25 a motor vehicle retailer for the purpose of resale..... ~~15.00~~20.00
- 26 (10) Each application for a salvage certificate of title made by
- 27 an insurer..... ~~15.00~~20.00
- 28 (11) Each set of replacement Stock Car Racing Theme plates
- 29 issued under G.S. 20-79.4 ~~25.00~~30.00

30 (b) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be
31 credited by the Division to the North Carolina Mobility Fund. The remaining fees shall be
32 distributed as set forth in this paragraph. Except as otherwise provided in subsection (a1) of this
33 section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be
34 credited to the North Carolina Highway Trust Fund. The fees collected under subdivision
35 (a)(10) of this section shall be credited to the Highway Fund. Fifteen dollars (\$15.00) of each
36 title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount
37 allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5."

38 **SECTION 21.1.(k)** G.S. 20-85.1(b) and (c) read as rewritten:

39 "(b) The Commissioner and the employees of the Division designated by the
40 Commissioner may prepare and deliver upon request a certificate of title, charging a fee of
41 ~~seventy five dollars (\$75.00)~~one hundred dollars (\$100.00) for one-day title service, in lieu of
42 the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or
43 by certified check.

44 (c) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be
45 credited by the Division to the North Carolina Mobility Fund. The remaining fee collected
46 under subsection (a) shall be credited to the Highway Fund. The remaining fee collected under
47 subsection (b) shall be credited to the Highway Trust Fund."

48 **SECTION 21.1.(l)** G.S. 20-87 reads as rewritten:

49 **"§ 20-87. Passenger vehicle registration fees.**

1 These shall be paid to the Division annually, as of the first day of January, for the
 2 registration and licensing of passenger vehicles, fees according to the following classifications
 3 and schedules:

4 (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is
 5 operated for compensation and has a capacity of 15 passengers or less is
 6 seventy-eight dollars (\$78.00). The fee for a passenger vehicle that is
 7 operated for compensation and has a capacity of more than 15 passengers is
 8 one dollar and forty cents (\$1.40) per hundred pounds of empty weight of
 9 the vehicle.

10 (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

| | | | |
|----|--------------|------------------------------|-------------------------------------|
| 11 | Motorcycles: | 1-passenger capacity..... | \$18.00 <u>\$23.00</u> |
| 12 | | 2-passenger capacity..... | 22.00 <u>\$28.00</u> |
| 13 | | 3-passenger capacity..... | 26.00 <u>\$33.00</u> |
| 14 | Automobiles: | 15 or fewer passengers | \$51.00 <u>\$60.00</u> |
| 15 | Buses: | 16 or more passengers | \$2.00 <u>\$2.25</u> per |
| 16 | | | hundred |
| 17 | | | pounds of |
| 18 | | | empty weight |

| | | | |
|----|---------------|--------------------|-----------------------------------|
| 19 | Trucks under | | |
| 20 | 7,000 pounds | | |
| 21 | that do not | | |
| 22 | haul products | | |
| 23 | for hire: | 4,000 pounds | \$41.50 <u>\$52.00</u> |
| 24 | | 5,000 pounds | \$51.00 <u>\$64.00</u> |
| 25 | | 6,000 pounds | \$61.00 <u>\$76.00</u> |

26 (3) Repealed by Session Laws 1981, c. 976, s. 3.

27 (4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which
 28 do not solicit passengers indiscriminately for hire between points along
 29 streets or highways, shall be taxed at the same rate as for-hire passenger
 30 vehicles under G.S. 20-87(1) but shall be issued appropriate registration
 31 plates to distinguish such vehicles from taxicabs.

32 (5) Private Passenger Vehicles. – There shall be paid to the Division annually,
 33 as of the first day of January, for the registration and licensing of private
 34 passenger vehicles, fees according to the following classifications and
 35 schedules:

| | | | |
|----|---|--|-----------------------------------|
| 36 | Private passenger vehicles of not more than fifteen | | |
| 37 | passengers | | \$28.00 <u>\$35.00</u> |
| 38 | Private passenger vehicles over fifteen | | |
| 39 | passengers | | 31.00 <u>\$39.00</u> |

40 Provided, that a fee of only one dollar (\$1.00) shall be charged for any
 41 vehicle given by the federal government to any veteran on account of any
 42 disability suffered during war so long as such vehicle is owned by the
 43 original donee or other veteran entitled to receive such gift under Title 38,
 44 section 252, United States Code Annotated.

45 (6) Private Motorcycles. – The base fee on private passenger motorcycles shall
 46 be ~~fifteen dollars (\$15.00); eighteen dollars (\$18.00)~~ except that when a
 47 motorcycle is equipped with an additional form of device designed to
 48 transport persons or property, the base fee shall be ~~twenty-two dollars~~
 49 ~~(\$22.00); twenty-eight dollars (\$28.00)~~. An additional fee of three dollars
 50 (\$3.00) is imposed on each private motorcycle registered under this
 51 subdivision in addition to the base fee. The revenue from the additional fee,

in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

- (7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.
- (8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.
- (9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be ~~eleven dollars (\$11.00)~~twenty-five dollars (\$25.00) for the license year or any portion thereof.
- (10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.
- (11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.
- (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passengers vehicles of not more than 15 passengers.

Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited by the Division to the North Carolina Mobility Fund."

SECTION 21.1.(m) G.S. 20-88 reads as rewritten:

"§ 20-88 Property-hauling vehicles.

(a) Determination of Weight. – For the purpose of licensing, the weight of self-propelled property-carrying vehicles shall be the empty weight and heaviest load to be transported, as declared by the owner or operator; provided, that any determination of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded. The declared gross weight of self-propelled property-carrying vehicles operated in conjunction with trailers or semitrailers shall include the empty weight of the vehicles to be operated in the combination and the heaviest load to be transported by such combination at any time during the registration period, except that the gross weight of a trailer or semitrailer is not required to be included when the operation is to be in conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000 pounds or less gross weight and the gross weight of such combination does not exceed 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of 500 pounds above the weight permitted under the table of weights and rates appearing in subsection (b) of this section.

(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

| | |
|---------------------------------|---------------------------------|
| | Farmer Rate |
| Not over 4,000 pounds | \$0.29 <u>\$0.37</u> |
| 4,001 to 9,000 pounds inclusive | <u>.40.50</u> |

| | | |
|---|-----------------------------------|---------------|
| 1 | 9,001 to 13,000 pounds inclusive | <u>.50.63</u> |
| 2 | 13,001 to 17,000 pounds inclusive | <u>.68.85</u> |
| 3 | Over 17,000 pounds | <u>.77.97</u> |

Rates Per Hundred Pound Gross Weight

| | | |
|----|-----------------------------------|---------------------------------|
| 6 | | General Rate |
| 7 | Not over 4,000 pounds | \$0.59 <u>\$0.74</u> |
| 8 | 4,001 to 9,000 pounds inclusive | .81 <u>1.02</u> |
| 9 | 9,001 to 13,000 pounds inclusive | 1.00 <u>1.25</u> |
| 10 | 13,001 to 17,000 pounds inclusive | 1.36 <u>1.70</u> |
| 11 | Over 17,000 pounds | 1.54 <u>1.93</u> |

13 (1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four~~
 14 ~~dollars (\$24.00)~~thirty dollars (\$30.00) at the farmer rate and ~~twenty-eight~~
 15 ~~dollars (\$28.00)~~thirty-five dollars (\$35.00) at the general rate.

16 (2) The term "farmer" as used in this subsection means any person engaged in
 17 the raising and growing of farm products on a farm in North Carolina not
 18 less than 10 acres in area, and who does not engage in the business of buying
 19 products for resale.

20 (3) License plates issued at the farmer rate shall be placed upon trucks and
 21 truck-tractors that are operated for the primary purpose of carrying or
 22 transporting the applicant's farm products, raised or produced on the
 23 applicant's farm, and farm supplies. The license plates shall not be used on a
 24 vehicle operated in hauling for hire.

25 (4) "Farm products" means any food crop, livestock, poultry, dairy products,
 26 flower bulbs, or other nursery products and other agricultural products
 27 designed to be used for food purposes, including in the term "farm products"
 28 also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest
 29 products grown, produced, or processed by the farmer.

30 (5) The Division shall issue necessary rules and regulations providing for the
 31 recall, transfer, exchange or cancellation of "farmer" plates, when vehicle
 32 bearing such plates shall be sold or transferred.

33 (5a) Notwithstanding any other provision of this Chapter, license plates issued
 34 pursuant to this subsection at the farmer rate may be purchased for any
 35 three-month period at one fourth of the annual fee.

36 (6) There shall be paid to the Division annually the following fees for
 37 "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped
 38 weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers
 39 weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars
 40 (\$148.00). Fees to be prorated monthly. Provided, further, that nothing
 41 herein shall prohibit a licensed dealer from using a dealer's license plate to
 42 tow a vehicle for a customer.

43 (c) The fee for a semitrailer or trailer is ~~nineteen dollars (\$19.00)~~twenty-five dollars
 44 (\$25.00) for each year or part of a year. The fee is payable each year. Upon the application of
 45 the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration
 46 card for the semitrailer or trailer for a fee of seventy-five dollars (\$75.00). A multiyear plate
 47 and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer
 48 or trailer to another person or surrenders the plate and registration card to the Division. A
 49 multiyear plate may not be transferred to another vehicle.

1 The Division shall issue a multiyear semitrailer or trailer plate in a different color than an
 2 annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The
 3 Division may not issue a multiyear plate for a house trailer.

4 (d) Rates on trucks, trailers and semitrailers wholly or partially equipped with solid tires
 5 shall be double the above schedule.

6 (e) Repealed by Session Laws 1981, c. 976, s. 6.

7 (f) Repealed by Session Laws 1995, c. 163, s. 6.

8 (g) Repealed by Session Laws 1969, c. 600, s. 17.

9 (h) Repealed by Session Laws 1979, c. 419.

10 (i) Any vehicle fee determined under this section according to the weight of the vehicle
 11 shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.

12 (j) No heavy vehicle subject to the use tax imposed by Section 4481 of the Internal
 13 Revenue Code of 1954 (26 U.S.C. 4481) may be registered or licensed pursuant to G.S. 20-88
 14 without proof of payment of the use tax imposed by that law. The proof of payment shall be on
 15 a form prescribed by the United States Secretary of Treasury pursuant to the provisions of 23
 16 U.S.C. 141(d).

17 (k) A person may not drive a vehicle on a highway if the vehicle's gross weight exceeds
 18 its declared gross weight. A vehicle driven in violation of this subsection is subject to the
 19 axle-group weight penalties set in G.S. 20-118(e). The penalties apply to the amount by which
 20 the vehicle's gross weight exceeds its declared weight.

21 (l) The Division shall issue permanent truck and truck-tractor plates to Class A and
 22 Class B Motor Vehicles and shall include the word "permanent" on the plate. The permanent
 23 registration plates issued pursuant to this section shall be subject to annual registration fees set
 24 in this section. The Division shall issue the necessary rules providing for the recall, transfer,
 25 exchange, or cancellation of permanent plates issued pursuant to this section.

26 (m) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be
 27 credited by the Division to the North Carolina Mobility Fund."

28 **SECTION 21.1.(n)** G.S. 20-385 reads as rewritten:

29 **"§ 20-385. Fee schedule.**

30 (a) The fees listed in this section apply to a motor carrier. These fees are in addition to
 31 any fees required under the Unified Carrier Registration Agreement.

32 (1) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.

33 (2) Application by an intrastate motor carrier for a
 34 certificate of exemption

45-0047.00

35 (3) Certification by an interstate motor carrier that it is
 36 not regulated by the United States Department
 37 of Transportation

45-0057.00

38 (4) Application by an interstate motor carrier for an
 39 emergency trip permit

18-0023.00.

40 (b) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.

41 (c) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be
 42 credited by the Division to the North Carolina Mobility Fund."

43 **SECTION 21.1.(o)** G.S. 105-187.9 reads as rewritten:

44 **"§ 105-187.9. Disposition of tax proceeds.**

45 ~~(a) Distribution.—Taxes collected under this Article at the rate of eight percent (8%)~~
 46 ~~shall be credited to the General Fund. Taxes collected under this Article at the rate of three~~
 47 ~~percent (3%) shall be credited to the North Carolina Highway Trust Fund.~~

48 (b) **(Effective until July 1, 2009)** Transfer. – In each fiscal year the State Treasurer
 49 shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the
 50 General Fund. The transfer of funds authorized by this section may be made by transferring

1 one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full
2 amount annually on July 1 of each fiscal year, subject to the availability of revenue.

3 (1) The sum of one hundred forty-five million dollars (\$145,000,000).

4 (2) In addition to the amount transferred under subdivision (1) of this
5 subsection, the sum of one million seven hundred thousand dollars
6 (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount
7 distributed under this subdivision shall increase in the 2002-2003 fiscal year
8 to the sum of two million four hundred thousand dollars (\$2,400,000). In
9 each fiscal year thereafter, the sum transferred under this subdivision shall
10 be the amount distributed in the previous fiscal year plus or minus a
11 percentage of this sum equal to the percentage by which tax collections
12 under this Article increased or decreased for the most recent 12-month
13 period for which data are available.

14 (b) **(Effective July 1, 2009 until July 1, 2010)** Transfer. – In each fiscal year the State
15 Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund
16 to the General Fund. The transfer of funds authorized by this section may be made by
17 transferring one-fourth of the amount at the end of each quarter in the fiscal year or by
18 transferring the full amount annually on July 1 of each fiscal year, subject to the availability of
19 revenue.

20 (1) The sum of one hundred six million dollars (\$106,000,000).

21 (2) In addition to the amount transferred under subdivision (1) of this
22 subsection, the sum of one million seven hundred thousand dollars
23 (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount
24 distributed under this subdivision shall increase in the 2002-2003 fiscal year
25 to the sum of two million four hundred thousand dollars (\$2,400,000). In
26 each fiscal year thereafter, the sum transferred under this subdivision shall
27 be the amount distributed in the previous fiscal year plus or minus a
28 percentage of this sum equal to the percentage by which tax collections
29 under this Article increased or decreased for the most recent 12-month
30 period for which data are available.

31 ~~(b) **(Effective July 1, 2010)** Transfer. – In each fiscal year the State Treasurer shall~~
32 ~~transfer the amounts provided below from the taxes deposited in the Trust Fund to the General~~
33 ~~Fund. The transfer of funds authorized by this section may be made by transferring one fourth~~
34 ~~of the amount at the end of each quarter in the fiscal year or by transferring the full amount~~
35 ~~annually on July 1 of each fiscal year, subject to the availability of revenue.~~

36 ~~(1) The sum of seventy one million dollars (\$71,000,000).~~

37 ~~(2) In addition to the amount transferred under subdivision (1) of this~~
38 ~~subsection, the sum of one million seven hundred thousand dollars~~
39 ~~(\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount~~
40 ~~distributed under this subdivision shall increase in the 2002-2003 fiscal year~~
41 ~~to the sum of two million four hundred thousand dollars (\$2,400,000). In~~
42 ~~each fiscal year thereafter, the sum transferred under this subdivision shall~~
43 ~~be the amount distributed in the previous fiscal year plus or minus a~~
44 ~~percentage of this sum equal to the percentage by which tax collections~~
45 ~~under this Article increased or decreased for the most recent 12-month~~
46 ~~period for which data are available.~~

47 (a) Highway Trust Fund. – All taxes collected under this Article must be credited to the
48 Highway Trust Fund unless subsection (b) of this section requires a different disposition.

49 (b) General Fund Transfer. – For the fiscal years listed below, the following amounts
50 shall be transferred to the General Fund, with the balance to remain in the Highway Trust Fund:

1 (1) For the 2010-2011 fiscal year, fifty million eight hundred ninety-four
2 thousand eight hundred sixty-four dollars (\$50,894,864)."

3 **SECTION 21.1.(p)** G.S. 136-41.1(a) reads as rewritten:

4 "(a) There is annually appropriated out of the State Highway Fund a sum equal to the net
5 amount after refunds that was produced during the fiscal year by a one and three-fourths cents
6 (1 3/4¢) tax on each gallon of motor fuel taxed under Article 36C of Chapter 105 of the General
7 Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that
8 Chapter. The amount appropriated shall be allocated in cash on or before October 1 of each
9 year to the cities and towns of the State in accordance with this section. In addition, as provided
10 in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to
11 the cities and towns of this State to be used for the same purposes and distributed in the same
12 manner as the revenue appropriated to them under this section from the Highway Fund. Like
13 the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund
14 shall be based on revenue collected during the fiscal year preceding the date the distribution is
15 made.

16 There is annually appropriated from the North Carolina Mobility Fund within the Highway
17 Trust Fund, as provided in G.S. 136-186.1, an amount equal to six and one-half percent (6½%)
18 of the annual collections for North Carolina Mobility Fund to the eligible municipalities of the
19 State in the percentage proportion that the mileage of public streets in each eligible
20 municipality which does not form a part of the State highway system bears to the total mileage
21 of the public streets in all eligible municipalities which do not constitute a part of the State
22 highway system.

23 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be
24 distributed among the several eligible municipalities of the State in the percentage proportion
25 that the population of each eligible municipality bears to the total population of all eligible
26 municipalities according to the most recent annual estimates of population as certified to the
27 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall
28 include increases in the population within the municipalities caused by annexations
29 accomplished through July 1 of the calendar year in which these funds are distributed.
30 Twenty-five percent (25%) of said fund shall be distributed among the several eligible
31 municipalities of the State in the percentage proportion that the mileage of public streets in
32 each eligible municipality which does not form a part of the State highway system bears to the
33 total mileage of the public streets in all eligible municipalities which do not constitute a part of
34 the State highway system.

35 It shall be the duty of the mayor of each municipality to report to the Department of
36 Transportation such information as it may request for its guidance in determining the eligibility
37 of each municipality to receive funds under this section and in determining the amount of
38 allocation to which each is entitled. Upon failure of any municipality to make such report
39 within the time prescribed by the Department of Transportation, the Department of
40 Transportation may disregard such defaulting unit in making said allotment.

41 The funds to be allocated under this section shall be paid in cash to the various eligible
42 municipalities on or before October 1 of each year. Provided that eligible municipalities are
43 authorized within the discretion of their governing bodies to enter into contracts for the purpose
44 of maintenance, repair, construction, reconstruction, widening, or improving streets of such
45 municipalities at any time after January 1 of any calendar year in total amounts not to exceed
46 ninety percent (90%) of the amount received by such municipality during the preceding fiscal
47 year, in anticipation of the receipt of funds under this section during the next fiscal year, to be
48 paid for out of such funds when received.

49 The Department of Transportation may withhold each year an amount not to exceed one
50 percent (1%) of the total amount appropriated for distribution under this section for the purpose
51 of correcting errors in allocations: Provided, that the amount so withheld and not used for

1 correcting errors will be carried over and added to the amount to be allocated for the following
2 year.

3 The word "street" as used in this section is hereby defined as any public road maintained by
4 a municipality and open to use by the general public, and having an average width of not less
5 than 16 feet. In order to obtain the necessary information to distribute the funds herein
6 allocated, the Department of Transportation may require that each municipality eligible to
7 receive funds under this section submit to it a statement, certified by a registered engineer or
8 surveyor of the total number of miles of streets in such municipality. The Department of
9 Transportation may in its discretion require the certification of mileage on a biennial basis."

10 **SECTION 21.1.(q)** G.S. 105-164.44D reads as rewritten:

11 "**§ 105-164.44D. Reimbursement for sales tax exemption for purchases by the**
12 **Department of Transportation.**

13 The amount of sales and use tax revenue that is not realized by the General Fund as the
14 result of the sales and use tax exemption in G.S. 105-164.13 for purchases by the Department
15 of Transportation shall be transferred from the Highway Fund to ~~the General Fund in~~
16 ~~accordance with this section. This direct transfer is made in lieu of eliminating the Department~~
17 ~~of Transportation's sales and use tax exemption to alleviate the administrative and accounting~~
18 ~~burden that would be placed on the Department of Transportation by eliminating the~~
19 ~~exemption.~~ the North Carolina Mobility Fund created pursuant to G.S. 136-186.1.

20 For the 1991-92 fiscal year, the State Treasurer shall transfer the sum of eight million seven
21 hundred thousand dollars (\$8,700,000) from the Highway Fund to the General Fund. The
22 transfer shall be made on a quarterly basis by transferring one fourth of the annual amount each
23 quarter.

24 For each fiscal year following the 1991-92 fiscal year, the State Treasurer shall transfer the
25 sum transferred the previous fiscal year plus or minus the percentage of that amount by which
26 the total collection of State sales and use taxes increased or decreased during the previous fiscal
27 year. In each fiscal year, the transfer shall be made on a quarterly basis by transferring
28 one fourth of the annual amount each quarter."

29 **SECTION 21.1.(r)** G.S. 136-176 is amended by adding a new subsection to read:

30 "(b3) Any amounts appropriated for a particular fiscal year under subsection (b2) of this
31 section to a project for which the North Carolina Department of Transportation or North
32 Carolina Turnpike Authority has not issued bonds requiring debt service or related financing by
33 the end of that fiscal year shall be transferred to the North Carolina Mobility Fund established
34 pursuant to G.S. 136-181.1."

35 **SECTION 21.1.(s)** Sections 21.1(c), 21.1(f), and 21.1(f1) become effective July 1,
36 2011. Sections 21.1(d), 21.1(e), 21.1(p), and 21.1(q) become effective July 1, 2012. The
37 remaining provisions become effective July 1, 2010.

38 39 **PART XXII. SALARIES AND BENEFITS**

40 41 **TEACHERS AND STATE EMPLOYEES' PAYBACK**

42 **SECTION 22.1.(a)** Notwithstanding any law to the contrary, all persons employed
43 in the Executive, Judicial, and Legislative branches of State government, and all employees of
44 the public schools, community colleges, and universities whose salaries are paid in whole or in
45 part from moneys appropriated by the Appropriations Act of 2009 shall receive a onetime
46 bonus payment equivalent to one-half percent (0.5%) of their annualized base salary paid
47 between July 1, 2009, and June 30, 2010.

48 **SECTION 22.1.(b)** The onetime bonus payment shall not be included in the
49 retirement average final compensation and shall not be subject to employee or employer
50 contributions to the Retirement Systems Division or Optional Retirement Program (ORP).
51

TEACHER SALARY SCHEDULES

SECTION 22.2.(a) Effective for the 2010-2011 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 (c) 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 22.2.(b) The following monthly salary schedules shall apply for the 2010-2011 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 33 steps with each step corresponding to one year of teaching experience.

2010-2011 Monthly Salary Schedule
"A" Teachers

| Years of Experience | "A" Teachers | NBPTS Certification |
|---------------------|--------------|---------------------|
| 0 | \$3,043 | N/A |
| 1 | \$3,043 | N/A |
| 2 | \$3,085 | N/A |
| 3 | \$3,129 | \$3,504 |
| 4 | \$3,264 | \$3,656 |
| 5 | \$3,404 | \$3,812 |
| 6 | \$3,538 | \$3,963 |
| 7 | \$3,667 | \$4,107 |
| 8 | \$3,771 | \$4,224 |
| 9 | \$3,819 | \$4,277 |
| 10 | \$3,868 | \$4,332 |
| 11 | \$3,918 | \$4,388 |
| 12 | \$3,967 | \$4,443 |
| 13 | \$4,018 | \$4,500 |
| 14 | \$4,069 | \$4,557 |
| 15 | \$4,122 | \$4,617 |
| 16 | \$4,176 | \$4,677 |
| 17 | \$4,231 | \$4,739 |
| 18 | \$4,286 | \$4,800 |
| 19 | \$4,345 | \$4,866 |
| 20 | \$4,403 | \$4,931 |
| 21 | \$4,461 | \$4,996 |
| 22 | \$4,523 | \$5,066 |
| 23 | \$4,584 | \$5,134 |
| 24 | \$4,650 | \$5,208 |
| 25 | \$4,714 | \$5,280 |
| 26 | \$4,779 | \$5,352 |
| 27 | \$4,845 | \$5,426 |
| 28 | \$4,913 | \$5,503 |
| 29 | \$4,984 | \$5,582 |
| 30 | \$5,055 | \$5,662 |
| 31 | \$5,153 | \$5,771 |
| 32+ | \$5,255 | \$5,886 |

2010-2011 Monthly Salary Schedule

"M" Teachers

| Years of Experience | "M" Teachers | NBPTS Certification |
|---------------------|--------------|---------------------|
| 0 | \$3,347 | N/A |
| 1 | \$3,347 | N/A |
| 2 | \$3,394 | N/A |
| 3 | \$3,442 | \$3,855 |
| 4 | \$3,590 | \$4,021 |
| 5 | \$3,744 | \$4,193 |
| 6 | \$3,892 | \$4,359 |
| 7 | \$4,034 | \$4,518 |
| 8 | \$4,148 | \$4,646 |
| 9 | \$4,201 | \$4,705 |
| 10 | \$4,255 | \$4,766 |
| 11 | \$4,310 | \$4,827 |
| 12 | \$4,364 | \$4,888 |
| 13 | \$4,420 | \$4,950 |
| 14 | \$4,476 | \$5,013 |
| 15 | \$4,534 | \$5,078 |
| 16 | \$4,594 | \$5,145 |
| 17 | \$4,654 | \$5,212 |
| 18 | \$4,715 | \$5,281 |
| 19 | \$4,780 | \$5,354 |
| 20 | \$4,843 | \$5,424 |
| 21 | \$4,907 | \$5,496 |
| 22 | \$4,975 | \$5,572 |
| 23 | \$5,042 | \$5,647 |
| 24 | \$5,115 | \$5,729 |
| 25 | \$5,185 | \$5,807 |
| 26 | \$5,257 | \$5,888 |
| 27 | \$5,330 | \$5,970 |
| 28 | \$5,404 | \$6,052 |
| 29 | \$5,482 | \$6,140 |
| 30 | \$5,561 | \$6,228 |
| 31 | \$5,668 | \$6,348 |
| 32+ | \$5,781 | \$6,475 |

SECTION 22.2.(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 22.2.(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

1 addition to the compensation provided for certified personnel of the public schools who are
 2 classified as "M" teachers.

3 **SECTION 22.2.(e)** The first step of the salary schedule for school psychologists
 4 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule
 5 established in this section for certified personnel of the public schools who are classified as
 6 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate
 7 step based on their years of experience. Certified psychologists shall receive longevity
 8 payments based on years of State service in the same manner as teachers.

9 Certified psychologists with certification based on academic preparation at the
 10 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
 11 (\$126.00) per month in addition to the compensation provided for certified psychologists.

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

15 **SECTION 22.2.(f)** Speech pathologists who are certified as speech pathologists at
 16 the master's degree level and audiologists who are certified as audiologists at the master's
 17 degree level and who are employed in the public schools as speech and language specialists and
 18 audiologists shall be paid on the school psychologist salary schedule. Speech pathologists and
 19 audiologists with certification based on academic preparation at the six-year degree level shall
 20 receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition
 21 to the compensation provided for speech pathologists and audiologists. Speech pathologists and
 22 audiologists with certification based on academic preparation at the doctoral degree level shall
 23 receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition
 24 to the compensation provided for speech pathologists and audiologists.

25 **SECTION 22.2.(g)** Certified school nurses who are employed in the public schools
 26 as nurses shall be paid on the "M" salary schedule.

27 **SECTION 22.2.(h)** As used in this section, the term "teacher" shall also include
 28 instructional support personnel.
 29

30 **SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE**

31 **SECTION 22.3.(a)** Effective for the 2010-2011 school year, the Director of the
 32 Budget shall transfer from the Reserve for Compensation Increases funds necessary to
 33 implement the salary schedules for school-based administrators as provided in this section.
 34 These funds shall be used for State-paid employees only.

35 **SECTION 22.3.(b)** The base salary schedule for school-based administrators shall
 36 apply only to principals and assistant principals. The base salary schedule for the 2010-2011
 37 fiscal year, commencing July 1, 2010, is as follows:
 38

39 2010-2011 Principal and Assistant Principal Salary Schedules Classification

| 40 | 41 | 42 | 43 | 44 | 45 | 46 |
|--------------|-----------|---------|---------|----------|---------|----|
| Years of Exp | Assistant | Prin I | Prin II | Prin III | Prin IV | |
| | Principal | (0-10) | (11-21) | (22-32) | (33-43) | |
| 43 | 0-4 | \$3,781 | | | | |
| 44 | 5 | \$3,931 | | | | |
| 45 | 6 | \$4,074 | | | | |
| 46 | 7 | \$4,189 | | | | |
| 47 | 8 | \$4,243 | \$4,243 | | | |
| 48 | 9 | \$4,298 | \$4,298 | | | |
| 49 | 10 | \$4,353 | \$4,353 | \$4,408 | | |
| 50 | 11 | \$4,408 | \$4,408 | \$4,464 | | |
| 51 | 12 | \$4,464 | \$4,464 | \$4,521 | \$4,579 | |

| | | | | | | |
|----|----|---------|---------|---------|---------|---------|
| 1 | 13 | \$4,521 | \$4,521 | \$4,579 | \$4,640 | \$4,701 |
| 2 | 14 | \$4,579 | \$4,579 | \$4,640 | \$4,701 | \$4,762 |
| 3 | 15 | \$4,640 | \$4,640 | \$4,701 | \$4,762 | \$4,828 |
| 4 | 16 | \$4,701 | \$4,701 | \$4,762 | \$4,828 | \$4,891 |
| 5 | 17 | \$4,762 | \$4,762 | \$4,828 | \$4,891 | \$4,956 |
| 6 | 18 | \$4,828 | \$4,828 | \$4,891 | \$4,956 | \$5,025 |
| 7 | 19 | \$4,891 | \$4,891 | \$4,956 | \$5,025 | \$5,092 |
| 8 | 20 | \$4,956 | \$4,956 | \$5,025 | \$5,092 | \$5,166 |
| 9 | 21 | \$5,025 | \$5,025 | \$5,092 | \$5,166 | \$5,237 |
| 10 | 22 | \$5,092 | \$5,092 | \$5,166 | \$5,237 | \$5,310 |
| 11 | 23 | \$5,166 | \$5,166 | \$5,237 | \$5,310 | \$5,383 |
| 12 | 24 | \$5,237 | \$5,237 | \$5,310 | \$5,383 | \$5,458 |
| 13 | 25 | \$5,310 | \$5,310 | \$5,383 | \$5,458 | \$5,537 |
| 14 | 26 | \$5,383 | \$5,383 | \$5,458 | \$5,537 | \$5,617 |
| 15 | 27 | \$5,458 | \$5,458 | \$5,537 | \$5,617 | \$5,725 |
| 16 | 28 | \$5,537 | \$5,537 | \$5,617 | \$5,725 | \$5,839 |
| 17 | 29 | \$5,617 | \$5,617 | \$5,725 | \$5,839 | \$5,956 |
| 18 | 30 | \$5,725 | \$5,725 | \$5,839 | \$5,956 | \$6,075 |
| 19 | 31 | \$5,839 | \$5,839 | \$5,956 | \$6,075 | \$6,197 |
| 20 | 32 | | \$5,956 | \$6,075 | \$6,197 | \$6,321 |
| 21 | 33 | | | \$6,197 | \$6,321 | \$6,447 |
| 22 | 34 | | | \$6,321 | \$6,447 | \$6,576 |
| 23 | 35 | | | | \$6,576 | \$6,708 |
| 24 | 36 | | | | \$6,708 | \$6,842 |
| 25 | 37 | | | | | \$6,979 |

2010-2011 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 |

| | | | | | |
|---|----|---------|---------|---------|---------|
| 1 | 35 | \$6,842 | \$6,979 | \$7,261 | \$7,406 |
| 2 | 36 | \$6,979 | \$7,119 | \$7,406 | \$7,554 |
| 3 | 37 | \$7,119 | \$7,261 | \$7,554 | \$7,705 |
| 4 | 38 | \$7,261 | \$7,406 | \$7,705 | \$7,859 |
| 5 | 39 | | \$7,554 | \$7,859 | \$8,016 |
| 6 | 40 | | \$7,705 | \$8,016 | \$8,176 |
| 7 | 41 | | | \$8,176 | \$8,340 |

SECTION 22.3.(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 22.3.(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 22.3.(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 22.3.(f) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 22.3.(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.

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

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

9 **SECTION 22.3.(h)** Participants in an approved full-time master's in school
10 administration program shall receive up to a 10-month stipend at the beginning salary of an
11 assistant principal during the internship period of the master's program. For the 2006-2007
12 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the
13 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any
14 fellowship funds received by the intern as a full-time student, including awards of the Principal
15 Fellows Program. The Principal Fellows Program or the school of education where the intern
16 participates in a full-time master's in school administration program shall supply the
17 Department of Public Instruction with certification of eligible full-time interns.

18 **SECTION 22.3.(i)** During the 2010-2011 fiscal year, the placement on the salary
19 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
20 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
21 schedule, whichever is higher.

22 **BONUS LEAVE FOR STATE EMPLOYEES**

23 **SECTION 22.4.(a)** Except as provided by subsection (b) of this section, any
24 person (i) who is a full-time permanent employee of the State, a community college institution,
25 or a local board of education on July 1, 2010, and (ii) who is eligible to earn annual leave shall
26 have a onetime additional 32 hours of bonus leave credited on that date. The additional leave
27 shall be accounted for separately from other leave. Of these 32 hours, 24 flexible bonus hours
28 shall remain available until used, notwithstanding any other limitation on the total number of
29 days of annual leave that may be carried forward. The remaining eight hours must be used on
30 December 23, 2010, or be forfeited, notwithstanding requirements for employees who are
31 required to work on December 23 in order to provide scheduled services. Employees who are
32 required to work on December 23 or who work in institutions that would be closed on that day
33 must be allowed to use these eight hours of leave within 30 days before or after December 23,
34 2010, or forfeit it if unused by January 23, 2011. Part-time permanent employees who earn
35 annual leave shall receive a pro rata amount.

36 **SECTION 22.4.(b)** The following persons are not eligible to receive the special
37 annual leave bonus authorized by this section:

- 38 (1) Any employee or officer who does not earn annual leave.
- 39 (2) Any public school employee or State employee paid on the Teacher Salary
40 Schedule or the School-Based Administrator Salary Schedule.

41 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

42 **SECTION 22.5.(b)** Section 6(c) of S.L. 2009-16 reads as rewritten:

43 **"SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted
44 for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal
45 year are: (i) ~~eight and ninety-four hundredths percent (8.94%)~~ ten and seventy hundredths
46 percent (10.70%) – Teachers and State Employees; (ii) ~~thirteen and ninety-four hundredths~~
47 percent (13.94%) ~~fifteen and seventy hundredths percent (15.70%)~~ – State Law Enforcement
48 Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees'
49 Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) –
50
51

1 Community College Optional Retirement Program; (v) ~~eighteen and eleven hundredths percent~~
 2 ~~(18.11%)~~ twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement
 3 System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System.
 4 Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%)
 5 for hospital and medical benefits. The rate for Teachers and State Employees, State Law
 6 Enforcement Officers, Community College Optional Retirement Program, and for the
 7 University Employees' Optional Retirement Program includes fifty-two hundredths percent
 8 (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State
 9 Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits
 10 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental
 11 Retirement Income."
 12

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

15 **SECTION 22.6.** Effective July 1, 2010, any permanent personnel employed on
 16 July 1, 2010, and paid at the top of the teacher salary schedule shall receive a onetime bonus
 17 equivalent to one and seventy-eight hundredths percent (1.78%). Any permanent personnel
 18 employed on July 1, 2010, and paid at the top of the principal and assistant principal salary
 19 schedule shall receive a onetime bonus equivalent to two percent (2%).
 20

21 **STATE AGENCY TEACHERS' COMPENSATION**

22 **SECTION 22.7.** Funds in the Reserve for Compensation Increases shall be used
 23 for experience step increases for employees of schools operated by the Department of Health
 24 and Human Services, the Department of Correction, the Department of Juvenile Justice and
 25 Delinquency Prevention, or the North Carolina School of Science and Mathematics who are
 26 paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.
 27

28 **PART XXIII. CAPITAL APPROPRIATIONS**

29
 30 **CAPITAL APPROPRIATIONS/GENERAL FUND**

31 **SECTION 23.1.** There is appropriated from the General Fund for the 2010-2011
 32 fiscal year the following amount for capital improvements:
 33

| Capital Improvements – General Fund | 2010-2011 |
|--|---------------------|
| Department of Environment and Natural Resources | |
| Water Resources Development Projects | 11,172,072 |
| TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND | \$11,172,072 |

40
 41 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

42 **SECTION 23.2.(a)** The Department of Environment and Natural Resources shall
 43 allocate the funds appropriated in this act for water resources development projects to the
 44 following projects whose costs are as indicated:

| Name of Project | 2010-2011 |
|---|------------------|
| (1) Wilmington Harbor Deepening | 2,000,000 |
| (2) Wilmington Harbor Maintenance | 100,000 |
| (3) Morehead City Harbor Maintenance | 200,000 |
| (4) B. Everett Jordan Lake Water Supply Storage | 1,250,000 |
| (5) Dredging Contingency Fund | 1,000,000 |
| (6) AIWW Dredging | 5,000 |

| | | | |
|----|------|--|---------------------|
| 1 | (7) | Bogue Banks Shore Protection Study | 50,000 |
| 2 | (8) | John H. Kerr Dam and Reservoir Sec. 216 | - |
| 3 | (9) | Neuse River Basin PED | 200,000 |
| 4 | (10) | Princetonville Flood Damage Reduction | 50,000 |
| 5 | (11) | Currituck Sound Environmental Restoration Study | 350,000 |
| 6 | (12) | Belhaven Harbor – CAP – Sec 1135 | 0 |
| 7 | (13) | Surf City / North Topsail Beach Protection Study-PED | 50,000 |
| 8 | (14) | West Onslow Beach(Topsail Beach)-PED | 800,000 |
| 9 | (15) | Silver Lake Harbor Disposal Area Maintenance | 25,000 |
| 10 | (16) | Manteo Old House Channel – CAP – Sec 204 | - |
| 11 | (17) | Concord Streams Restoration – CAP – Sec 206 | - |
| 12 | (18) | North Carolina International Terminal | - |
| 13 | (19) | Planning Assistance to Communities | 2,000,000 |
| 14 | (20) | State – Local projects | 350,000 |
| 15 | (21) | Aquatic Plant Control, Statewide and Lake Gaston | 266,000 |
| 16 | (22) | Aquatic Weed Storage Facility | 210,000 |
| 17 | (23) | Lake Junaluska Dredging | 150,000 |
| 18 | (24) | Cape Fear River Basin Model Update | 37,500 |
| 19 | (25) | Catawba Water Management Study | 425,000 |
| 20 | (26) | Little Fork Creek Restoration (Rendezvous SF) | 303,572 |
| 21 | (27) | Emerald Isle Boat Launch Facility | 450,000 |
| 22 | (28) | Southern Shores Canal Dredging | 900,000 |
| 23 | | | |
| 24 | | TOTALS | \$11,172,072 |
| 25 | | | |

SECTION 23.2.(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 2010-2011 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 2010-2011.
- (3) State-local water resources development projects.
- (4) Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2010-2011 fiscal year.

SECTION 23.2.(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.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 23.3.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

| Name of Project | Amount of Non-General Fund Funding Authorized for FY 2010-2011 |
|---|---|
| Department of Agriculture and Consumer Services | |
| Upgrade Steam Generation Capability at Food and Drug Facility | 18,000 |
| Western NC Agricultural Center – Storage Shed | 23,000 |
| Western NC Agricultural Center – Entertainment Stage | 35,000 |
| Western NC Agricultural Center – Youth Building Roof Replacement | 3,000 |
| Western NC Agricultural Center – RV Site Improvements | 20,000 |
| Western NC Agricultural Center – C&D Barn Access Road | 125,000 |
| Western NC Agricultural Center – Handicap Platform | 8,000 |
| Western NC Agricultural Center – Exhibits/Cashier Office | 70,000 |
| Western NC Agricultural Center – Retention Pond Parking | 225,000 |
| Constable Lab Standby Generator/Rollins Lab Security | 363,245 |
| Southeastern Agricultural Center – Multipurpose Pavilion | 1,290,000 |
| Southeastern Agricultural Center – Horse Stalls | 700,000 |
| Research Stations Irrigation Renovations | 200,000 |
| Piedmont Research Station – Grain Storage Renovation | 400,000 |
| Department of Correction | |
| Southern Medium Programs Building | 600,000 |
| Caledonia Programs Building | 600,000 |
| Caswell Programs Building | 600,000 |
| Southern Minimum Programs Building | 600,000 |
| Randolph Programs Building | 600,000 |
| Department of Cultural Resources | |
| USS NC Battleship Repairs, Dredging, Construction | 1,700,000 |
| Commission Battleship Fund | |
| Department of Environment and Natural Resources | |
| Forest Resources – Bladen Lakes Ranger Residence | 399,000 |
| Department of Justice | |
| NC Justice Academy Live Fire Shoot House | 282,000 |
| Wildlife Resources Commission | |
| Pisgah Education Center Repairs and Renovation | 60,000 |
| Outer Banks Education Center Repairs and Renovation | 26,000 |
| Mt. Holly Depot Acquisition | 150,000 |
| Statewide Boating Access Areas (BAA) Renovations | 3,610,000 |
| Table Rock Hatchery Residence Renovation | 150,000 |
| McKinney Lake Equipment Shed | 70,000 |
| Fishing Access Areas Construction | 180,000 |
| TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED | \$13,708,245 |

1
2 **SECTION 23.3.(b)** From funds deposited with the State Treasurer in a capital
3 improvement account to the credit of the Department of Agriculture and Consumer Services
4 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal
5 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
6 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
7 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
8 land, such as land appraisals, land surveys, title searches, environmental studies, and for the
9 management of the plant conservation program preserves owned by the Department.

10
11 **AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND**
12 **CAPITAL IMPROVEMENT AUTHORIZATIONS**

13 **SECTION 23.4.** Section 27.4(a) of S.L. 2009-451 reads as rewritten:

14 **"SECTION 27.4.(a)** The General Assembly authorizes the following capital projects to be
15 funded with receipts or from other non-General Fund sources available to the appropriate
16 department:

| 17 Name of Project | 18 Amount of Non-General Fund 19 Funding Authorized for FY 2009-2010 |
|--|---|
| 20 | |
| 21 Department of Crime Control and Public Safety | |
| 22 Additions and Renovations to Armories | \$ 9,303,442 |
| 23 Camp Butner Cantonment – Phase 1 Design | 1,367,000 |
| 24 Family Assistance Centers | 2,000,000 |
| 25 Gastonia Armory Renovation and Expansion | 1,100,000 |
| 26 Tactical Unmanned Aerial Systems Facility | 6,746,000 |
| 27 | |
| 28 Department of Cultural Resources | |
| 29 Aycock Birthplace Picnic Shelter | 86,100 |
| 30 Maritime Museum – Floating Dock | 130,000 |
| 31 Museum of History Chronology Exhibit – Phase 2B (1900-1960) | 1,200,000 |
| 32 | |
| 33 Department of Environment and Natural Resources | |
| 34 Zoo – Elephant Exhibit New Restrooms | 300,000 |
| 35 | |
| 36 Wildlife Resources Commission | |
| 37 Armstrong Hatchery Lower Raceway Replacement | 1,725,000 |
| 38 Centennial Campus Education Center Exhibit Completion | 180,000 |
| 39 Chinquapin Equipment Storage Pole Shed | 60,000 |
| 40 Chowan Bridge Fishing Pier and Edenton Boating Access | 450,000 |
| 41 Emerald Isle New Boating Access Area | 600,000 |
| 42 Falls Lake Office Building | 550,000 |
| 43 Hampstead Land Acquisition | 10,000,000 |
| 44 Land Acquisitions – State Gamelands | 59,135,000 20,000,000 |
| 45 Lewelyn Branch New Boating Access Area | 150,000 |
| 46 Manns Harbor Bridge Marina Acquisition | 5,750,000 |
| 47 Marion Depot Drainage Repairs | 200,000 |
| 48 McKinney Lake Hatchery Kettles Replacement | 1,700,000 |
| 49 Minor Boating Access Area Renovations – Various Locations | 150,000 |
| 50 New Coldwater Fish Hatchery Construction | 7,900,000 |
| 51 <u>Marion Hatchery and Depot Renovation</u> | <u>4,000,000</u> |

| | | |
|----|--|-----------|
| 1 | <u>Statewide Emergency Repair & Renovation</u> | 3,500,000 |
| 2 | Ocean Isle Boating Access Area Renovations | 150,000 |
| 3 | Outer Banks Education Center Teaching Facility Repairs | 245,000 |
| 4 | Pechmann Fishing Education Center Pond Restoration | 160,000 |
| 5 | Pechmann Fishing Education Center Storage Building | 220,000 |
| 6 | Pisgah Education Center Gift Shop Renovation and Expansion | 200,000 |
| 7 | Pisgah Education Center Outdoor Exhibit Renovation | 450,000 |
| 8 | Pisgah Education Center Repairs | 155,000 |
| 9 | Pisgah Hatchery Water System Renovation | 100,000 |
| 10 | Rhodes Pond Dam Repairs | 500,000 |
| 11 | Sneads Ferry Land Acquisition | 6,500,000 |
| 12 | Sunset Harbor Land Acquisition | 925,000 |
| 13 | Swan Quarter Land Acquisition | 1,700,000 |
| 14 | Sykes Depot Pond, Office, Storage Construction | 350,000 |
| 15 | Table Rock Hatchery Office and Workshop Replacement | 345,000 |

16
17 **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**
18 **PROJECTS AUTHORIZED**

~~\$122,782,542~~\$83,247,542

19
20 Wildlife Resources Commission must receive approval from the Office of State Budget and
21 Management before expending funds from the Statewide Emergency Repair & Renovation
22 project."
23

24 **AMEND DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING**
25 **CONSTRUCTION**

26 **SECTION 23.6.** Section 27.8 of S.L. 2009-451 reads as rewritten:
27 **"SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference Committee
28 Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the General
29 Fund shall service the debt for the Green Square Complex parking ~~deck during the 2009-2011~~
30 ~~fiscal biennium~~ deck."
31

32 **PART XXIV. REVENUE LAW CHANGES**
33

34 **RENEW SMALL BUSINESS HEALTH INSURANCE CREDIT**

35 **SECTION 24.1.(a)** G.S. 105-129.16E reads as rewritten:
36 **"§ 105-129.16E. (Effective for taxable years beginning on or after January 1, 2007, and**
37 **expires for taxable years beginning on or after January 1, 2010) Credit for**
38 **small business employee health benefits.**

39 (a) Credit. – A small business that provides health benefits for all of its eligible
40 employees during the taxable year is allowed a credit to offset its costs in providing health
41 benefits for its eligible employees. For the purposes of this subsection, a taxpayer provides
42 health benefits if it pays at least fifty percent (50%) of the premiums for health care coverage
43 that equals or exceeds the minimum provisions of the basic health care plan of coverage
44 recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125 or if its
45 employees have qualifying existing coverage.

46 The credit is equal to a dollar amount per eligible employee whose total wages or salary
47 received from the business does not exceed forty thousand dollars (\$40,000) on an annual basis.
48 The dollar amount is two hundred fifty dollars (\$250.00), not to exceed the taxpayer's costs of
49 providing health benefits for the employee during the taxable year.

50 (b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year
51 resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction

1 calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual
2 and is required to apportion its multistate business income to this State, the taxpayer must
3 reduce the amount of the credit by multiplying it by the apportionment fraction used to
4 apportion its apportionable income to this State.

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

6 (1) Eligible employee. – Defined in G.S. 58-50-110.

7 (2) Qualifying existing coverage. – Defined in G.S. 58-50-130(a)(4a).

8 (3) Small business. – A taxpayer that employs no more than 25 eligible
9 employees throughout the taxable year.

10 (d) Sunset. – This section expires for taxable years beginning on or after January 1,
11 ~~2010-2012.~~"

12 **SECTION 24.1.(b)** This act is effective when it becomes law.

13 **SMALL BUSINESS START-UP TAX RELIEF**

14 **SECTION 24.2.(a)** G.S. 105-130.5(b) is amended by adding a new subdivision to
15 read:

16 "(b) The following deductions from federal taxable income shall be made in determining
17 State net income:

18 ...

19 (26) The amount of any exclusion of gain for qualified businesses allowed under
20 Part 5 of this Article, to the extent included in federal taxable income, less
21 the amount of the credits recaptured pursuant to G.S. 105-163.021; provided,
22 however, that a taxpayer is not required to claim this exclusion."

23 **SECTION 24.2.(b)** G.S. 105-134.6(b) is amended by adding a new subdivision to
24 read:

25 "(b) Deductions. – The following deductions from taxable income shall be made in
26 calculating North Carolina taxable income, to the extent each item is included in taxable
27 income:

28 ...

29 (21) The amount of the exclusion of gain for qualified businesses allowed under
30 Part 5 of this Article, less the amount of the credits recaptured pursuant to
31 G.S. 105-163.021; provided, however, that a taxpayer is not required to
32 claim this exclusion."

33 **SECTION 24.2.(c)** Part 5 of Article 4 of Chapter 105 of the General Statutes is
34 amended by adding the following new section to read:

35 **"§ 105-163.020. Exclusion of gain allowed.**

36 (a) Election. – A taxpayer may elect to exclude from the taxpayer's income taxable
37 under this Article any gain or other taxable income recognized for federal income tax purposes
38 from the sale or exchange of qualified securities.

39 (b) Pass-Through Entity. – Except as provided in subsection (c) of this section, a
40 taxpayer that is an owner of a pass-through entity may exclude from the taxpayer's income
41 taxable under this Article an amount equal to the taxpayer's allocated share of the exclusion for
42 which the pass-through entity is eligible under subsection (a) of this section.

43 (c) Qualified Grantee Pass-Through Entity. – If a taxpayer is an owner of a
44 pass-through entity that was a qualified grantee business at the time of the taxpayer's
45 investment in the pass-through entity, the taxpayer may exclude from the taxpayer's income
46 taxable under this Article an amount equal to the gain or other taxable income recognized as a
47 result of the taxpayer's ownership in the pass-through entity, multiplied by a fraction, the
48 numerator of which is the total amount invested by the pass-through entity in qualified
49 businesses and the denominator of which is the total amount invested by the pass-through
50 entity. For purposes of this subsection, the amounts invested by a pass-through entity shall be
51

1 the amounts invested immediately before the pass-through entity's sale or exchange producing
2 the gain or taxable income excluded under this subsection.

3 **"§ 105-163.021. Recapture of credit.**

4 If a taxpayer claims an exclusion of gain from income pursuant to G.S. 105-163.020, the
5 income tax of the taxpayer for the tax year for which the exclusion is claimed shall be increased
6 by the amount of all credits previously claimed by the taxpayer pursuant to G.S. 105-163.011
7 with respect to qualified securities that (i) have been sold or exchanged and (ii) the gain from
8 which has been excluded pursuant to G.S. 105-163-020.

9 **"§ 105-163.022. Qualified securities.**

10 (a) **Qualified Security.** – Except as otherwise provided in this section, any equity
11 security or subordinated debt instrument issued by a qualified business is a qualified security if
12 it satisfies all of the following conditions:

- 13 (1) It is originally issued by the business on or after January 1, 2011.
- 14 (2) As of the date of issuance, the issuing business is a qualified business.
- 15 (3) The security or instrument is acquired by the taxpayer at its original issue in
16 exchange for any tangible or intangible property or benefit to the business,
17 including cash, promissory notes, services performed, contracts for services
18 to be performed, or other equity securities of the business.
- 19 (4) It is held by the taxpayer for a continuous period of more than one year.
- 20 (5) No broker's fee or commission or other similar remuneration is paid or given
21 directly or indirectly for soliciting the purchase.
- 22 (6) If the security or instrument was purchased by a pass-through entity, the
23 entity met the requirements of G.S. 105-163.011(b1) at the time of purchase.

24 (b) **Registration.** – Securities of a qualified business acquired before the effective date
25 of its registration are not qualified securities. Revocation of the registration of a qualified
26 business pursuant to G.S. 105-163.013 does not affect the exclusion of gain from qualified
27 securities acquired while the registration was in effect if all conditions for registration are
28 satisfied.

29 (c) **Effect of Redemptions and Other Distributions.** – An equity security or subordinated
30 debt instrument is not a qualified security to the extent the taxpayer purchased it with the
31 proceeds of a redemption, dividend, or distribution made by the business that issued the
32 security or instrument. For the purpose of this subsection, when a business makes a redemption,
33 dividend, or distribution during the four-year period beginning two years before the issuance of
34 securities or instruments to a taxpayer, the taxpayer is considered to have used the proceeds of
35 the redemption, dividend, or distribution toward the purchase of the securities or instruments. A
36 redemption, dividend, or distribution occurs when the business issuing the security or
37 instrument does either of the following:

- 38 (1) Purchases, directly or indirectly, any of its outstanding equity securities or
39 subordinated debt, other than qualified securities, from the taxpayer or a
40 related person.
- 41 (2) Declares a dividend or makes a distribution with respect to any of its
42 outstanding equity securities or subordinated debt, other than qualified
43 securities, to the taxpayer or a related person. This subdivision does not
44 apply, however, to a distribution in connection with one of the following:
 - 45 a. The reimbursement to the taxpayer of the reasonable costs of
46 forming, syndicating, managing, and operating the business.
 - 47 b. An increase in the taxpayer's taxes, penalties, or interest to the extent
48 the increase is caused by the allocation to the taxpayer of income of
49 the business.

50 The repayment of principal on subordinated debt is a purchase of the debt except to the
51 extent the repayment is repayment of principal due on the subordinated debt at its maturity

1 pursuant to the terms of the subordinated debt instrument. If a transaction is treated under
2 section 304(a) of the Code as a distribution in redemption of the equity securities of a business,
3 that business has, for the purpose of this subsection, purchased an amount of its equity
4 securities equal to the amount treated as such a distribution under section 304(a) of the Code.

5 (d) Exception for Certain Transactions. – The following transactions are not treated as a
6 redemption or distribution for the purposes of subsection (c) of this section:

7 (1) Any deemed liquidation of a business pursuant to section 708(b)(1)(A) of
8 the Code by reason of the business becoming a disregarded entity for federal
9 tax purposes, to the extent there is not actual distribution of money or other
10 property to the taxpayer of a related person.

11 (2) Any deemed distribution or redemption by reason of a technical termination
12 of a business pursuant to section 708(b)(1)(B) of the Code to the extent there
13 is no actual distribution of money or other property to the taxpayer or a
14 related person.

15 (e) Conversion of Other Securities. – Any equity security or subordinated debt
16 instrument issued by a business and acquired by the taxpayer solely through the conversion of
17 another equity security or subordinated debt instrument that was issued by the business and was
18 a qualified security in the hands of the taxpayer is considered, for the purpose of this section, a
19 qualified security in the hands of the taxpayer and acquired by the taxpayer on the date the
20 taxpayer acquired the converted qualified security.

21 (f) Transfers. – In the case of a transfer by gift, by death, or from a pass-through entity
22 to one of its owners, the transferee is considered, for the purpose of this section, to have
23 acquired the qualified security in the same manner as the transferor and to have held it during
24 any continuous period immediately preceding the transfer during which it was held or treated as
25 held by the transferor.

26 In the case of a transaction described in section 351 or 721 of the Code or a reorganization
27 described in section 368 of the Code, if qualified securities are exchanged for other securities,
28 the other securities are considered, for the purpose of this section, qualified securities acquired
29 on the date the exchanged qualified securities were acquired. In the case of a transaction
30 described in section 351 or 721 of the Code, the newly acquired securities are considered
31 qualified securities, however, only if, immediately after the transaction, the business issuing the
32 securities owns, directly or indirectly, securities representing control, within the meaning of
33 section 368(c) of the Code, of the business whose securities were exchanged.

34 **"§ 105-163.023. Limitations.**

35 (a) Contributions and Exchanges of Property. – In the case of a transaction described in
36 section 351 or 721 of the Code or a reorganization described in section 368 of the Code, if a
37 taxpayer contributes property to or exchanges property with a qualified business, the following
38 rules apply:

39 (1) Qualified securities exchanged for property. – Except as otherwise provided
40 in subdivision (3) of this subsection, a taxpayer who transfers property to a
41 business in exchange for qualified securities in the business must, for
42 purposes of determining North Carolina taxable income, recognize gain
43 equal to the amount by which the fair market value of the property exceeded
44 the taxpayer's basis in the property on the date the property was exchanged
45 for the qualified securities. This gain must be recognized for the years for
46 which the taxpayer claims an exclusion of gain under this Part with respect
47 to the disposition of qualified securities received in exchange for the
48 property.

49 (2) Contributions to capital. – Except as otherwise provided in subdivision (3) of
50 this subsection, if the adjusted basis of a qualified security is adjusted due to
51 a contribution to capital after the date the qualified security was issued

1 originally, for purposes of determining North Carolina taxable income, the
2 taxpayer must recognize gain equal to the amount by which the fair market
3 value of the contributed property exceeded the taxpayer's basis in the
4 property on the date the property was contributed. This gain must be
5 recognized for the years for which the taxpayer claims an exclusion of gain
6 under this Part with respect to the disposition of the qualified securities.

- 7 (3) Disposition of contributed property. – If a qualified business disposes of
8 property contributed to it, the disposition occurs before the taxpayer who
9 contributed the property claims an exclusion of gain pursuant to this Part
10 with respect to qualified securities affected by the contribution, and the
11 taxpayer recognizes gain from the disposition, then for purposes of
12 subdivisions (1) and (2) of this subsection, the taxpayer's basis in the
13 contributed property is increased by any gain the taxpayer recognized from
14 the disposition.

15 (b) Transactions That Substantially Reduce the Risk of Loss. – If a taxpayer has entered
16 into any transaction that substantially reduces the risk of loss from holding the qualified
17 securities, there is no exclusion of gain under this Part from the sale or exchange of the
18 qualified securities unless the taxpayer entered into the transaction on or after January 1, 2011,
19 and elects to recognize gain as if the qualified securities were sold at fair market value on the
20 date the taxpayer first entered into that transaction. The following are examples of a transaction
21 that substantially reduces the risk of loss from holding the qualified securities:

- 22 (1) The taxpayer or a related person has made a short sale of substantially
23 identical property.
24 (2) The taxpayer or a related person has acquired an option to sell substantially
25 identical property at a fixed price."
26

27 **EXTEND QUALIFIED BUSINESS VENTURE CREDIT AND RAISE CAP**

28 **SECTION 24.3.(a)** G.S. 105-163.012(b) reads as rewritten:

29 "(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for
30 investments made in a calendar year may not exceed ~~seven million five hundred thousand~~
31 ~~dollars (\$7,500,000)~~ eight million dollars (\$8,000,000). The Secretary of Revenue shall
32 calculate the total amount of tax credits claimed from the applications filed pursuant to
33 G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a
34 calendar year exceeds this maximum amount, the Secretary shall allow a portion of the credits
35 claimed by allocating the maximum amount in tax credits in proportion to the size of the credit
36 claimed by each taxpayer."

37 **SECTION 24.3.(b)** G.S. 105-163.015 reads as rewritten:

38 "**§ 105-163.015. Sunset.**

39 This Part is repealed effective for investments made on or after January 1, ~~2011~~ 2013."
40

41 **EXTEND REFUND FOR MOTORSPORTS AVIATION**

42 **SECTION 24.4.** G.S. 105-164.14(l) reads as rewritten:

43 "(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or
44 a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this
45 State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel
46 to a motorsports event in another state from a location in this State, or to travel to this State
47 from a motorsports event in another state. For the purposes of this subsection, a "motorsports
48 event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A
49 request for a refund must be in writing and must include any information and documentation
50 the Secretary requires. A request for a refund is due within six months after the end of the

1 State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed
 2 for purchases made on or after January 1, ~~2011~~, 2013."

3
 4 **CONFORM TO FEDERAL HIRE ACT**

5 **SECTION 24.5.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

6 "(b) Definitions. – The following definitions apply in this Article:

7 ...

8 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009~~, May 1,
 9 2010, including any provisions enacted as of that date which become
 10 effective either before or after that date."

11 **SECTION 24.5.(b)** This act is effective when it becomes law.

12
 13 **HIGH UNEMPLOYMENT HIRING INCENTIVE**

14 **SECTION 24.6.** G.S. 105-129.81 reads as rewritten:

15 "**§ 105-129.81. Definitions.**

16 The following definitions apply in this Article:

17 ...

18 (11a) High unemployment county. – [For the tax years ending on December 31,
 19 2011 and December 31, 2012,] a county that has an unemployment rate
 20 equal or greater than 125% of the State average unemployment rate, as
 21 determined by the Secretary of Commerce annually in the development tier
 22 ranking published pursuant to G.S. 143B-437.08.

23"

24 **SECTION 24.6A.** G.S. 105-129.87(a) reads as rewritten:

25 "(a) Credit. – A taxpayer that meets the eligibility requirements set out in
 26 G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under
 27 subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The
 28 amount of the credit for each new job created is set out in the table below and is based on the
 29 development tier designation of the county in which the job is located. If the job is located in an
 30 urban progress zone or an agrarian growth zone, the amount of the credit is increased by one
 31 thousand dollars (\$1,000) per job. In addition, if a job located in an urban progress zone or an
 32 agrarian growth zone is filled by a resident of that zone or by a long-term unemployed worker,
 33 or if a job is located in a high unemployment county, the amount of the credit is increased by an
 34 additional two thousand dollars (\$2,000) per job.

| Area Development Tier | Amount of Credit |
|-----------------------|------------------|
| Tier One | \$12,500 |
| Tier Two | 5,000 |
| Tier Three | 750" |

39
 40 **BACK TO WORK INCENTIVE FUND**

41 **SECTION 24.7.(a)** From the funds appropriated in statewide reserve for the Back
 42 To Work Incentive Fund, the Department of Revenue, in consultation with the Office of the
 43 North Carolina Small Business Commissioner in the North Carolina Department of Commerce,
 44 shall implement a Back to Work Incentive program to ensure payments are made to eligible
 45 small businesses for hiring and retaining eligible new workers who were previously
 46 unemployed.

47 **SECTION 24.7.(b)** Business Eligibility. – A business that satisfies all of the
 48 following conditions is eligible for a payment under this section:

- 49 (1) The business must have claimed and be eligible for the federal payroll tax
 50 deduction under the federal HIRE Act [26 U.S.C. § 3111(d)].

- 1 (2) The business must have claimed Form 941, Employers Quarterly Federal
2 Tax Return, for consecutive quarters beginning with the third quarter of
3 2010.
- 4 (3) The business must employ 25 or fewer employees. A business that employs
5 25 or fewer employees is not rendered ineligible for payments under the
6 program by hiring new eligible employees that bring the total number of
7 employees in the business to a number in excess of 25.
- 8 (4) The business must have a North Carolina state withholding responsibility
9 under G.S. 105-163.2.
- 10 (5) The business must be compliant with North Carolina tax laws. The business
11 is not eligible for a payment under this section if, at the time the business
12 applies for the payment, the business has received a notice of an overdue tax
13 debt and that overdue tax debt has not been satisfied or otherwise resolved.
- 14 (6) An eligible business does not include the United States, any state, or any
15 political subdivision thereof, or any instrumentality of the foregoing.

16 **SECTION 24.7.(c)** Individual Eligibility. – An individual who satisfies all of the
17 following conditions is an eligible new worker under this section:

- 18 (1) An individual must complete and sign Form W-11 or similar statement
19 under penalties of perjury that he or she has not been employed for more
20 than 40 hours during the 60-day period ending on the date the employee
21 begins employment.
- 22 (2) An individual must begin employment after July 1, 2010, and before January
23 1, 2011, in a full-time position. A full-time position requires at least 1,600
24 hours of work per year and is intended to be held by one employee during
25 the entire year.
- 26 (3) An individual must work in North Carolina and have a valid North Carolina
27 drivers license or North Carolina ID card.
- 28 (4) An individual cannot be employed to replace another employee unless the
29 other employee separated from employment voluntarily or for cause.
- 30 (5) An individual cannot be related to the employer. An employee is related to
31 the employer if he or she is the employer's child or a descendent of the
32 employer's child, employer's sibling or stepsibling, employer's parent or an
33 ancestor of the employer's parent, employer's stepparent, employer's niece or
34 nephew, employer's aunt or uncle, or employer's in-law. An employee also is
35 related to an employer if he or she is related to anyone who owns more than
36 fifty percent (50%) of the employer's outstanding stock or capital and profits
37 interest or is the employer's dependent or a dependent of anyone who owns
38 more than fifty percent (50%) of the employer's outstanding stock or capital
39 and profits interest.

40 **SECTION 24.7.(d)** Payment. – A business that meets the eligibility requirements
41 in subsection (b) of this section and hires an eligible new worker under subsection (c) of this
42 section may receive a payment of one thousand dollars (\$1,000) per new worker.

43 **SECTION 24.7.(e)** Cap. – The payments allowed under this section may not
44 exceed six thousand dollars (\$6,000) per individual employer.

45 **SECTION 24.7.(f)** Total Amount. – The total amount of all payments made under
46 this section to eligible businesses that hire eligible new workers shall not exceed fifteen million
47 dollars (\$15,000,000). If the applications received under subsection (g) exceed this maximum
48 amount, payments shall be distributed on a first come, first served basis until all funds are
49 exhausted.

50 **SECTION 24.7.(g)** Application. – The Secretary of Revenue is directed to develop
51 an application process and timetable that enables payments to be made to eligible businesses

1 after proof that the businesses have hired and retained eligible new employees for a period of at
2 least three months. The funds allocated under this provision must be allocated to eligible
3 businesses no later than June 30, 2011. The Secretary shall set a deadline for receipt of
4 applications that is no later than May 15, 2011. The application must include the following
5 information:

- 6 (1) Completed and signed Form W-11 or similar statement under penalties of
7 perjury that he or she has not been employed for more than 40 hours during
8 the 60-day period ending on the date the employee begins employment.
- 9 (2) Completed and signed Form 941, Employers Quarterly Federal Tax Return,
10 for consecutive quarters beginning with the third quarter of 2010.
- 11 (3) Any additional supporting documentation required by the Secretary.

12 **SECTION 24.7.(h)** No more than three percent (3%) of the funds appropriated to
13 the reserve may be used by the Secretary or Revenue and Secretary of Commerce to administer
14 the Back to Work Incentive program.

15 **SECTION 24.7.(i)** G.S. 105-259.16E(b) is amended by adding a new subdivision
16 to read:

17 "(40) To provide information to the Office of the Small Business Commissioner in
18 the North Carolina Department of Commerce to assist in administering and
19 processing payments to businesses eligible for a Back to Work payment as
20 authorized in the Appropriations Act of 2010."

21 **PART XXV. MISCELLANEOUS PROVISIONS**

22 **STATE BUDGET ACT APPLIES**

23
24 **SECTION 25.1.** The provisions of the State Budget Act, Chapter 143C of the
25 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
26 this act by reference.
27

28 **MOST TEXT APPLIES ONLY TO THE 2010-2011 FISCAL YEAR**

29 **SECTION 25.2.** Except for statutory changes or other provisions that clearly
30 indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of
31 this act apply only to funds appropriated for, and activities occurring during, the 2010-2011
32 fiscal year.
33

34 **EFFECT OF HEADINGS**

35 **SECTION 25.3.** The headings to the parts and sections of this act are a
36 convenience to the reader and are for reference only. The headings do not expand, limit, or
37 define the text of this act, except for effective dates referring to a Part.
38

39 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

40 **SECTION 25.4.(a)** Except where expressly repealed or amended by this act, the
41 provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect.

42 **SECTION 25.4.(b)** Notwithstanding any modifications by this act in the amounts
43 appropriated, except where expressly repealed or amended, the limitations and directions for
44 the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to
45 particular agencies or for particular purposes apply to the newly enacted appropriations and
46 budget reductions of this act for those same particular purposes.
47

48 **SEVERABILITY CLAUSE**

49

1 **SECTION 25.5.** If any section or provision of this act is declared unconstitutional
2 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
3 than the part so declared to be unconstitutional or invalid.
4

5 **EFFECTIVE DATE**

6 **SECTION 25.6.** Except as otherwise provided, this act becomes effective July 1,
7 2010.