

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS35275-LExf-112D* (2/11)

Short Title: Appropriations Act of 2009. (Public)

Sponsors: Senators Garrou, Albertson, Dannelly, and Swindell.

Referred to:

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

5
6 The General Assembly of North Carolina enacts:

7
8 **PART I. INTRODUCTION AND TITLE OF ACT**

9
10 **INTRODUCTION**

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

16
17 **TITLE OF ACT**

18 **SECTION 1.2.** This act shall be known as "The Current Operations and Capital
19 Improvements Appropriations Act of 2009."

20
21 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

22
23 **SECTION 2.1.** Appropriations from the General Fund of the State for the
24 maintenance of the State's departments, institutions, and agencies, and for other purposes as
25 enumerated are made for the biennium ending June 30, 2011, according to the following
26 schedule:

27		FY 2009-2010	FY 2010-2011
28		(In Millions)	(In Millions)
29	State Agency or Division		
30			
31	Health and Human Services		
32			
33	Central Administration	50,378,890	52,351,620
34	Aging	38,852,637	38,854,436
35	Child Development	279,553,887	300,898,883



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1	Education Services	38,367,421	38,419,329
2	Public Health	184,376,922	186,253,287
3	Social Services	211,862,807	218,188,346
4	Medical Assistance	3,534,653,548	3,760,966,766
5	Child Health	72,878,252	84,507,003
6	Services for the Blind	11,410,072	11,410,073
7	Mental Health/DD/SAS	802,183,113	797,170,665
8	Health Service Regulation	18,013,493	18,018,831
9	Vocational Rehabilitation	42,095,435	42,108,493
10			
11	Total Health & Human Services	5,284,626,477	5,549,147,732
12			
13	Natural and Economic Resources		
14			
15	Agriculture & Consumer Services	59,718,202	59,454,549
16	Commerce	48,502,026	44,544,085
17	Commerce – State Aid to Non-State Entities	70,065,318	58,315,318
18	Environment and Natural Resources	199,933,377	202,333,715
19	Clean Water Management Trust Fund	75,000,000	75,000,000
20	Labor	15,852,544	15,880,605
21			
22	Total Natural and Economic Resources	469,071,467	455,528,272
23			
24	Justice and Public Safety		
25			
26	Correction	1,316,791,882	1,322,897,116
27	Crime Control & Public Safety	41,127,049	41,069,041
28	Judicial	471,127,933	481,700,136
29	Judicial – Indigent Defense	123,716,016	127,185,222
30	Justice	94,287,671	94,483,101
31	Juvenile Justice	155,076,168	155,242,861
32			
33	Total Justice and Public Safety	2,202,126,719	2,222,577,477
34			
35	General Government		
36			
37	Administration	73,702,894	73,489,302
38	State Auditor	13,224,512	13,240,784
39	Cultural Resources	72,819,260	74,215,832
40	Cultural Resources – Roanoke Island	1,955,050	1,955,050
41	General Assembly	57,661,786	59,371,264
42	Governor's Office	6,113,531	6,119,712
43	Insurance	31,644,853	31,707,037
44	Insurance – Workers' Compensation Fund	2,000,000	2,000,000
45	Lieutenant Governor	937,852	937,852
46	Office of Administrative Hearings	3,967,455	3,980,290
47	Revenue	84,920,596	85,013,566
48	NC Housing Finance	14,608,417	14,608,417
49	Secretary of State	11,110,720	11,184,594
50	State Board of Elections	6,183,822	6,187,615
51	State Budget and Management (OSBM)	6,593,846	6,597,294

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1	OSBM – Special Appropriations	5,273,000	4,273,000
2	Office of State Controller	23,611,155	24,243,461
3	State Treasurer	10,370,644	10,384,432
4	State Treasurer – Retirement/Benefits	10,804,671	10,804,671
5			
6	Total General Government	437,504,064	440,314,173
7			
8	Education		
9			
10	Public Schools	7,947,740,343	8,109,136,300
11	Community Colleges	1,026,792,329	1,068,146,255
12	University System	2,659,865,615	2,678,472,564
13	UNC – Hospital	36,011,882	36,011,882
14	UNC – GA Passthrough	162,440,759	214,213,885
15			
16	Total Education	11,832,850,928	12,105,980,886
17			
18	Total Budget	20,226,179,655	20,773,548,540
19			
20	Debt Service		
21			
22	General Debt Service	662,994,697	735,878,445
23	Federal Reimbursement	1,616,380	1,616,380
24			
25	Total Debt Service	664,611,077	737,494,825
26			
27	Reserves & Adjustments		
28			
29	Contingency and Emergency Reserve	5,000,000	5,000,000
30	Teacher Salary Schedule Employee's Reserve	64,726,385	56,051,665
31	Administrative Support Reduction Statewide Reserve	(3,000,000)	(4,000,000)
32	Retirement System	21,000,000	21,000,000
33	Freeze Longevity Payments Reserve	(173,000,000)	(177,800,000)
34	Economic and Recovery Section Reserve	1,277,682	1,062,872
35	Health Plan Reserve	125,000,000	228,000,000
36	Job Development Investment Grants	27,400,000	27,400,000
37	Budget E-Procurement Receipts	-0-	(10,000,000)
38	Health Plan Reserve Reduction-Employee's Opting Out	(25,000,000)	(25,000,000)
39	2010 Census Local Promotion Reserve	750,000	-0-
40	Performance Management System Reserve	3,250,000	1,000,000
41	Transparency and Accountability Reserve	500,000	500,000
42	IT Initiative	14,821,416	14,821,416
43			
44	Total Reserves & Adjustments	62,725,483	138,035,953
45			
46	Capital		
47			
48	Capital Improvements	27,600,000	-0-
49			
50	Total Capital	27,600,000	-0-
51			

1	Total General Fund Budget	<u>\$20,981,116,215</u>	<u>\$21,649,079,318</u>
2			
3	GENERAL FUND AVAILABILITY STATEMENT		
4			
5	SECTION 2.2. The General Fund availability used in developing the 2009-2011		
6	budget is shown below:		
7		FY 2009-2010	FY 2010-2011
8	Description	(In Millions)	(In Millions)
9			
10	Beginning Availability		
11	Unappropriated Balance from Prior Fiscal Year	-	-
12	Credit Balance FY 2008-2009 (Reversions & Overcollections)	-	-
13	Credit to Savings Reserve Account	-	-
14	Credit to Repairs and Renovations Reserve Account	-	-
15	Beginning Unreserved Credit Balance	-	-
16			
17	Revenues		
18	Tax:		
19	Individual Income Tax	10,385,100,000	10,962,100,000
20	Corporate Income Tax	772,000,000	823,700,000
21	Sales and Use	5,038,400,000	5,400,300,000
22	Other Tax	<u>1,835,000,000</u>	<u>1,886,700,000</u>
23	Total Tax	18,030,500,000	19,072,800,000
24	Nontax/Transfers	<u>831,000,000</u>	<u>831,300,000</u>
25	Total Revenue	18,861,500,000	19,904,100,000
26			
27	Revenue Changes		
28	Tobacco (\$1.00 cigarette, \$1.35 total; 18% other)	342,900,000	457,100,000
29			
30	Alcohol (5% tax surcharge)	157,500,000	210,000,000
31			
32	Improved Enforcement	50,000,000	75,000,000
33			
34	Adjust Fees	27,439,810	30,553,080
35			
36	Disproportionate Share Allocation	24,994,954	-
37	Small Business Tax Relief	(12,000,000)	(24,000,000)
38			
39	Caregiver's Tax Credit	-	(800,000)
40	Founder's Credit	-	-
41	WaterSense Holiday	-	-
42	Miscellaneous IRC Conformities	<u>(10,400,000)</u>	<u>(20,100,000)</u>
43			
44	Subtotal Revenue Changes	580,434,764	706,753,080
45			
46	Federal Recovery Funds		
47	FMAP Assistance	1,003,677,475	500,711,010
48	Fiscal Stabilization-Education	580,966,000	580,966,000
49	Fiscal Stabilization-General Purpose	<u>129,261,500</u>	<u>129,261,500</u>
50			
51	Subtotal Federal Recovery Funds	1,713,904,975	1,210,938,510

1			
2	Total Availability	21,155,839,739	21,821,791,590
3			
4	Less: Total General Fund Appropriations	20,981,116,215	21,649,079,318
5	Transfer Funds to Fiscal Responsibility Reserve	174,723,525	-
6			
7	Unappropriated Balance Remaining	-	\$172,712,272

8

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

10

11 **CURRENT OPERATIONS/HIGHWAY FUND**

12 **SECTION 3.1.** Appropriations from the Highway Fund of the State for the
 13 maintenance and operation of the Department of Transportation, and for other purposes as
 14 enumerated, are made for the biennium ending June 30, 2011, according to the following
 15 schedule:

16			
17	Current Operations – Highway Fund	FY 2009-2010	FY 2010-2011
18			
19	DOT – General Administration	\$ 80,810,522	\$ 81,897,273
20	Highway Division Administration	32,938,983	32,993,177
21	State Match for Federal Aid-Planning and Research	4,055,402	4,055,402
22			
23	Construction Program:		
24	State Secondary System	87,071,264	86,200,551
25	Division Small Urban Construction	19,530,000	19,530,000
26	Discretionary Funds	13,950,000	13,950,000
27	Spot Safety Improvements	9,100,000	9,100,000
28	Access and Public Services Roads	<u>1,860,000</u>	<u>1,860,000</u>
29	Total Construction Program	131,511,264	130,640,551
30			
31	Maintenance Program		
32	Primary System	187,750,224	179,888,263
33	Secondary System	269,718,619	261,856,658
34	System Preservation	71,534,008	63,435,877
35	Contract Resurfacing	250,826,777	242,964,816
36	General Maintenance Reserve	<u>39,518,978</u>	<u>39,518,978</u>
37	Total Maintenance Program	819,348,606	787,664,592
38			
39	Ferry Operations	30,206,209	30,110,209
40	State Aid to Municipalities	87,071,264	86,200,551
41	State Aid to Railroads	17,101,153	17,101,153
42	State Aid for Public Transportation	71,595,962	71,631,962
43	Airports	17,349,592	17,291,543
44	OSHA	355,389	355,389
45	Governor's Highway Safety Program	351,779	352,325
46	Division of Motor Vehicles	<u>101,732,813</u>	<u>101,747,629</u>
47			
48	Total Department of Transportation	\$ 1,394,428,938	\$ 1,362,041,756
49			
50	Appropriations to Other State Agencies:		
51	Agriculture	4,972,215	4,965,929

1	Revenue	6,238,753	6,244,609
2	State Treasurer	17,557,170	17,504,498
3	Office of State Controller-BEST Shared Services	444,037	444,037
4	Public Instruction – Civil Penalties	22,000,000	22,000,000
5	Public Instruction – Driver Education	33,959,859	33,321,964
6	CCPS – Highway Patrol	198,351,279	201,164,792
7	DENR – LUST Trust Fund	2,500,123	2,550,553
8	DHHS – Chemical Test	<u>660,039</u>	<u>660,039</u>
9	Total – Other State Agencies	286,683,475	288,856,421
10			
11	Reserves and Transfers:		
12	Minority Contractor Development	150,000	150,000
13	State Fire Protection Grant	150,000	150,000
14	Stormwater Discharge Permit	500,000	500,000
15	Reserve for Visitor's Centers	400,000	400,000
16	Global TransPark	1,600,000	1,600,000
17	Reserve for Health Insurance Adjustment	3,920,922	9,320,922
18	Employer's Contribution to Retirement	1,000,000	1,000,000
19	Reserve for Longevity Payments	(2,833,335)	(3,059,099)
20	Reserve for Administrative Reduction	<u>(2,500,000)</u>	<u>(2,500,000)</u>
21	Total Reserves and Transfers	2,387,587	7,561,823
22			
23	Total Highway Fund Appropriation	\$1,683,500,000	\$1,658,460,000
24			

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2009-2011 biennial budget is shown below:

29	Highway Fund Availability Statement	2009-2010	2010-2011
30			
31	Beginning Credit Balance	-	-
32	Estimated Revenue	1,683,500,000	1,658,460,000
33	Estimated Reversions	-	-
34			
35	Total Highway Fund Availability	<u>\$ 1,683,500,000</u>	<u>\$ 1,658,460,000</u>
36			

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

SECTION 4.1. Appropriations from the Highway Trust Fund are made for the biennium ending June 30, 2011, according to the following schedule:

43	Highway Trust Fund	2009-2010	2010-2011
44			
45	Department of Transportation:		
46	Maximum Allowance for Administration	\$41,092,320	\$42,373,920
47			
48	Construction Allocation:		
49	Intrastate System	352,674,316	369,455,555
50	Urban Loop System	110,759,502	118,440,179
51	Secondary Roads	57,777,091	60,531,355

1			
2	State Aid to Municipalities	39,893,942	41,549,515
3			
4	Bonds:		
5	Bond Redemption	54,065,000	54,030,000
6	Bond Interest	28,666,000	25,962,750
7			
8	NC Turnpike Authority	64,000,000	99,000,000
9			
10	Transfer to the General Fund	<u>108,561,829</u>	<u>72,846,726</u>
11			
12	Total Highway Trust Fund Appropriations	<u>\$857,490,000</u>	<u>\$884,190,000</u>

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. The Highway Trust Fund availability used in developing the 2009-2011 biennial budget is shown below:

17			
18	Highway Trust Fund Availability Statement	2009-2010	2010-2011
19			
20	Beginning Credit Balance	-	-
21	Estimated Revenue	857,490,000	884,190,000
22	Estimated Reversions	-	-
23			
24	Total Highway Trust Fund Availability	<u>\$857,490,000</u>	<u>\$884,190,000</u>

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

CIVIL FORFEITURE FUNDS

SECTION 5.1. Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2011, as follows:

31			
32		FY 2009-2010	FY 2010-2011
33	School Technology Fund	36,183,251	18,000,000
34	State Public School Fund	120,362,790	120,362,790
35	Total Appropriation	156,546,041	138,362,790

SECTION 5.2. All University of North Carolina campuses shall remit all parking fines held in escrow in the amount of eighteen million one hundred eighty-three thousand two hundred fifty-one dollars (\$18,183,251) to the Civil Penalties and Forfeitures Fund for appropriation.

SECTION 5.3. Local school administrative units are encouraged to use these funds to implement 21st century classrooms.

EDUCATION LOTTERY

SECTION 5.4.(a) Notwithstanding G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of three hundred sixty-eight million seventy thousand two hundred seven dollars (\$368,070,207) for the 2009-2010 fiscal year.

SECTION 5.4.(b) Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2009-2010 fiscal year are as follows:

1		
2	Class Size Reduction	99,582,223
3	Prekindergarten Program	84,452,881
4	Public School Building Capital Fund	147,228,083
5	Scholarships for Needy Students	36,807,021
6	Total Appropriation	\$368,070,208
7		

8 PART VI. GENERAL PROVISIONS

10 APPROPRIATION OF CASH BALANCES AND RECEIPTS

11 SECTION 6.1. Expenditures of cash balances, federal funds, departmental
12 receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise
13 Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and
14 authorized for the 2009-2011 fiscal biennium as follows:

- 15 (1) For all budget codes listed in "North Carolina State Budget, Recommended
16 Operating Budget 2009-2011, Volumes 1 through 6," cash balances and
17 receipts are appropriated up to the amounts specified in Volumes 1 through
18 6, as adjusted by the General Assembly, for the 2009-2010 fiscal year and
19 the 2010-2011 fiscal year. Funds may be expended only for the programs,
20 purposes, objects, and line items specified in Volumes 1 through 6, or
21 otherwise authorized by the General Assembly.
- 22 (2) For all budget codes that are not listed in "North Carolina State Budget,
23 Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash
24 balances and receipts are appropriated for each year of the 2009-2011 fiscal
25 biennium up to the level of actual expenditures for the 2008-2009 fiscal
26 year, unless otherwise provided by law. Funds may be expended only for the
27 programs, purposes, objects, and line items authorized for the 2008-2009
28 fiscal year.
- 29 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that
30 are required to be used to pay debt service requirements for various
31 outstanding bond issues and certificates of participation are appropriated up
32 to the actual amounts received for the 2009-2010 fiscal year and the
33 2010-2011 fiscal year and shall be used only to pay debt service
34 requirements.
- 35 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances
36 and receipts of funds that meet the definition issued by the Governmental
37 Accounting Standards Board of a trust or agency fund are appropriated for
38 and in the amounts required to meet the legal requirements of the trust
39 agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

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

44 BULK IT PURCHASING FOR UNIVERSITIES

45 SECTION 6.2. General Administration of The University of North Carolina with
46 assistance from the Office of Information Technology Services and the Office of State Budget
47 and Management shall consolidate information technology infrastructure purchasing which
48 includes, but is not limited to, personal computer and printer purchases for all 16 State
49 universities, the North Carolina School of Science and Mathematics, and General
50 Administration by creating a bulk purchasing process that will realize savings through
51 efficiencies. General Administration may choose to utilize the Office of Information

1 Technology Services' existing bulk contracts. Information technology infrastructure
2 expenditure shall not be authorized without complying with this section.
3

4 **CONSOLIDATING STATEWIDE NETWORKS**

5 **SECTION 6.3.** The Office of Information Technology Services, MCNC, and the
6 Office of State Budget and Management shall develop a viable plan for the
7 consolidation/migration of NCREN and the Office of Information Technology Services' State
8 backbone by January 31, 2010, to the Governor for implementation in fiscal year 2010-2011.
9 Rates will decrease as a result of this migration. These funds shall be taken from the agencies'
10 and universities' budgets on a pro rata basis based on usage for fiscal year 2010-2011.
11

12 **REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS**

13 **SECTION 6.3A.** G.S. 143-169.1 is repealed.
14

15 **INSURANCE AND FIDELITY BONDS**

16 **SECTION 6.4.** All insurance and all official fidelity and surety bonds authorized
17 for the several departments, institutions, and agencies shall be effected and placed by the
18 Department of Insurance, and the cost of placement shall be paid by the affected department,
19 institution, or agency with the approval of the Commissioner of Insurance.
20

21 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

22 **SECTION 6.5.** All funds appropriated by this act into reserves may be expended
23 only for the purposes for which the reserves were established.
24

25 **BUDGET CODE CONSOLIDATIONS**

26 **SECTION 6.6.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and
27 Management may adjust the enacted budget by making transfers among purposes or programs
28 for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund
29 codes. The Office of State Budget and Management shall change the authorized budget to
30 reflect these adjustments.
31

32 **BEACON ACCOUNTABILITY**

33 **SECTION 6.7.** In order to document the continued improvement of the BEACON
34 system, the Office of the State Controller (OSC), in consultation with the Office of the State
35 CIO and the Office of State Budget and Management (OSBM) shall conduct a study comparing
36 the operations of the BEACON system against private sector metrics for payroll and human
37 resource systems. These benchmarks shall be based on industry standards.

38 Beginning September 30, 2009, and quarterly thereafter, OSC shall provide reports
39 to the Governor's Office and the General Assembly using the agreed-upon metrics in at least
40 the following categories:

- 41 (1) System risk;
- 42 (2) Data integrity;
- 43 (3) Customer service;
- 44 (4) Service time;
- 45 (5) FTE and budget as compared to employees served;
- 46 (6) Reporting; and
- 47 (7) Cost.
48

49 **REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS**

50 **SECTION 6.8.** G.S. 143-169.1 is repealed.
51

OFFICE OF INFORMATION TECHNOLOGY SERVICES BUDGET REVIEW

SECTION 6.9. G.S. 147-33.88(a) reads as rewritten:

"(a) The Office shall develop an annual budget for review and approval by the Office of State Budget and Management ~~prior to April 1 of each year,~~ in accordance with G.S. 143C-3-3."

BUDGET REALIGNMENT

SECTION 6.10. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

TRUTH-IN-BUDGETING REFORM

SECTION 6.11. G.S. 143C-6-4 reads as rewritten:

"§ 143C-6-4. Budget Adjustments Authorized.

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

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

- (1) An object or line item within a ~~purpose or program~~ department so long as the total amount expended for the ~~purpose or program~~ department is no more than was authorized in the certified budget for the ~~purpose or program~~ department.
- (2) A purpose or program if the overexpenditure of the purpose or program is:
 - a. Required by a court or Industrial Commission order;
 - b. Authorized under G.S. 166A-5(1)a.9. of the Emergency Management Act; or
 - c. Required to call out the national guard.
- (3) A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, but only in accord with the following restrictions: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted, (ii) the scope of the purpose or program is not increased, ~~(iii) the overexpenditure is authorized on a nonrecurring basis,~~ and ~~(iv) (iii)~~ under no circumstances shall the total requirements for a State department exceed the department's certified budget for the fiscal year by more than ~~three percent (3%)~~ ten percent (10%) without prior consultation with the Joint Legislative Commission on Governmental Operations."

FISCAL RESPONSIBILITY RESERVE

SECTION 6.12. The unobligated balance of the General Fund at the end of fiscal year 2009-2010 shall be deposited in a reserve fund dedicated to maximizing federal recovery receipts, including those available through the American Recovery and Reinvestment Act of 2009 (ARRA), and filling any deficit created by anticipated federal recovery receipts that do not materialize. The Office of State Budget and Management shall administer the fund in consultation with the Joint Legislative Commission on Governmental Operations. Expenditures from the fund in fiscal year 2010-2011 are authorized for:

- (1) Required State matching funds for federal discretionary grants that create jobs or foster economic development;
- (2) Required State matching funds for federal discretionary grants included in the ARRA or any other federal recovery law or activity;
- (3) Offsetting any unexpected deficit due to receiving less recovery funding than anticipated from mandatory grants included in the ARRA; and
- (4) Implementing State government efficiency plans approved by the Governor and the Joint Legislative Commission on Governmental Operations.

PART VII. PUBLIC SCHOOLS**CHILDREN WITH DISABILITIES**

SECTION 7.1. The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand five hundred dollars and seventy-seven cents (\$3,500.77) per child for a maximum of 173,249 children for the 2009-2010 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities, or (ii) twelve and five-tenths percent (12.5%) of the 2009-2010 allocated average daily membership in the local school administrative unit.

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

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.2. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand one hundred sixty-three dollars and seven cents (\$1,163.07) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2009-2010 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 58,597 children for the 2009-2010 school year.

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

ABCS OF PUBLIC EDUCATION

SECTION 7.3. Notwithstanding G.S. 115C-105.36, the State Board of Education is directed to place a one-year moratorium on financial awards paid to school personnel in fiscal year 2009-2010 based on 2008-2009 student academic performance. The State Board of Education shall develop a plan to restructure the ABCs Accountability System and report the restructuring plan to the Governor and General Assembly no later than January 31, 2010.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS

1 **SECTION 7.4.(a)** The North Carolina Virtual Public School (NCVPS) program
2 shall report to the State Board of Education and shall maintain an administrative office at the
3 Department of Public Instruction.

4 **SECTION 7.4.(b)** The Director of NCVPS shall continue to ensure that course
5 quality standards are established and met and that all e-learning opportunities offered by
6 State-funded entities to public school students are consolidated under the North Carolina
7 Virtual Public School program, eliminating course duplication.

8 **SECTION 7.4.(c)** Subsequent to course consolidation, the Director shall prioritize
9 e-learning course offerings for students residing in rural and low-wealth county LEAs, in order
10 to expand available instructional opportunities. First-available e-learning instructional
11 opportunities should include courses required as part of the standard course of study for high
12 school graduation and AP offerings not otherwise available.

13 **SECTION 7.4.(d)** The State Board of Education shall implement an allotment
14 formula developed pursuant to Section 7.16(d) of S.L. 2006-66, for funding e-learning,
15 effective in the 2010-2011 fiscal year. NCVPS shall be available at no cost to all students in
16 North Carolina who are enrolled in North Carolina's public schools, Department of Defense
17 schools, and schools operated by the Bureau of Indian Affairs. The Department of Public
18 Instruction shall communicate to local school administrative units all applicable guidelines
19 regarding the enrollment of nonpublic school students in these courses.

20 **SECTION 7.4.(e)** The State Board of Education shall project funds needed to
21 operate the North Carolina Virtual Public School (NCVPS) for fiscal year 2009-2010. In order
22 to ensure funds are available, the State Board of Education is directed to utilize funding sources
23 in the following order:

24 (1) Available American Recovery and Reinvestment Act funds;

25 (2) Up to six million dollars (\$6,000,000) from the School Technology
26 appropriation.

27 If additional funds are needed, the State Board of Education may use funds from the State
28 Public School Fund to implement NCVPS courses.

30 **LEARN AND EARN ONLINE**

31 **SECTION 7.5.(a)** Funds are appropriated in this act for the Learn and Earn Online
32 program. This program will allow high school students to enroll in college courses to qualify
33 for college credit. Online courses will be made available to students through The University of
34 North Carolina and the North Carolina Community College System.

35 **SECTION 7.5.(b)** Funds shall be used for course tuition and only those technology
36 and course fees and textbooks required for course participation. Funds shall also support a
37 liaison position to be housed at the Department of Public Instruction to coordinate with The
38 University of North Carolina and North Carolina Community College System, and to
39 communicate course availability and related information to high school administrators,
40 teachers, and counselors.

41 **SECTION 7.5.(c)** The State Board of Education shall determine the allocation of
42 Learn and Earn Online course offerings across the State.

43 **SECTION 7.5.(d)** The State Board of Education shall allot funds for tuition, fees,
44 and textbooks on the basis of and after verification of the credit hour enrollment of high school
45 students in Learn and Earn Online courses.

46 **SECTION 7.5.(e)** The University of North Carolina program shall report to The
47 University of North Carolina Board of Governors, and the North Carolina Community College
48 program shall report to the North Carolina Community College Board of Trustees. The
49 Department of Public Instruction shall report to the State Board of Education.

50 **SECTION 7.5.(f)** Both The University of North Carolina and the North Carolina
51 Community College System shall provide oversight and coordination, including coordination

1 with the Department of Public Instruction and with the North Carolina Virtual Public School
2 (NCVPS) to avoid course duplication.

3 **SECTION 7.5.(g)** Course quality and rigor standards shall be established and each
4 program shall conduct course evaluations to ensure that the online courses made available to
5 students meet the established standards.

6 **SECTION 7.5.(h)** The State Board of Education, The University of North Carolina
7 and the North Carolina Community College System shall report on the proposed operating plan
8 for 2009-2010 to the Joint Legislative Education Oversight Committee, the Office of State
9 Budget and Management, and the Fiscal Research Division no later than September 1, 2009.

10 **SECTION 7.5.(i)** Local school administrative units may purchase textbooks for
11 Learn and Earn Online courses through the Department of Public Instruction's textbook
12 warehouse in the same manner as textbooks that have been adopted for public school students
13 by the State Board of Education.

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

17 **SECTION 7.5.(k)** This section becomes effective June 30, 2009.

18 19 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

20 **SECTION 7.6.(a)** Use of Funds for Supplemental Funding. – All funds received
21 pursuant to this section shall be used only: (i) to provide instructional positions, instructional
22 support positions, teacher assistant positions, clerical positions, school computer technicians,
23 instructional supplies and equipment, staff development, and textbooks; (ii) for salary
24 supplements for instructional personnel and instructional support personnel; and (iii) to pay an
25 amount not to exceed ten thousand dollars (\$10,000) of the plant operation contract cost
26 charged by the Department of Public Instruction for services. Local boards of education are
27 encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this
28 section to improve the academic performance of children who are performing at Level I or II on
29 either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing
30 at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to
31 the State Board of Education on an annual basis on funds used for this purpose, and the State
32 Board shall report this information to the Joint Legislative Education Oversight Committee.
33 These reports shall specify how these funds were targeted and used to implement specific
34 improvement strategies of each local school administrative unit and its schools, such as teacher
35 recruitment, closing the achievement gap, improving student accountability, addressing the
36 needs of at-risk students, and establishing and maintaining safe schools.

37 **SECTION 7.6.(b)** The State Board of Education shall report this information
38 annually by October 31 to the Office of State Budget and Management, the Joint Legislative
39 Education Oversight Committee, and the Fiscal Research Division.

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

- 41 (1) "Anticipated county property tax revenue availability" means the
42 county-adjusted property tax base multiplied by the effective State average
43 tax rate.
- 44 (2) "Anticipated total county revenue availability" means the sum of the:
45 a. Anticipated county property tax revenue availability,
46 b. Local sales and use taxes received by the county that are levied under
47 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of
48 Chapter 105 of the General Statutes,
49 c. Sales tax hold harmless reimbursement received by the county under
50 G.S. 105-521, and

- 1 d. Fines and forfeitures deposited in the county school fund for the most
2 recent year for which data are available.
- 3 (3) "Anticipated total county revenue availability per student" means the
4 anticipated total county revenue availability for the county divided by the
5 average daily membership of the county.
- 6 (4) "Anticipated State average revenue availability per student" means the sum
7 of all anticipated total county revenue availability divided by the average
8 daily membership for the State.
- 9 (5) "Average daily membership" means average daily membership as defined in
10 the North Carolina Public Schools Allotment Policy Manual, adopted by the
11 State Board of Education. If a county contains only part of a local school
12 administrative unit, the average daily membership of that county includes all
13 students who reside within the county and attend that local school
14 administrative unit.
- 15 (6) "County-adjusted property tax base" shall be computed as follows:
16 a. Subtract the present-use value of agricultural land, horticultural land,
17 and forestland in the county, as defined in G.S. 105-277.2, from the
18 total assessed real property valuation of the county,
19 b. Adjust the resulting amount by multiplying by a weighted average of
20 the three most recent annual sales assessment ratio studies,
21 c. Add to the resulting amount the:
22 1. Present-use value of agricultural land, horticultural land, and
23 forestland, as defined in G.S. 105-277.2,
24 2. Value of property of public service companies, determined in
25 accordance with Article 23 of Chapter 105 of the General
26 Statutes, and
27 3. Personal property value for the county.
- 28 (7) "County-adjusted property tax base per square mile" means the
29 county-adjusted property tax base divided by the number of square miles of
30 land area in the county.
- 31 (8) "County wealth as a percentage of State average wealth" shall be computed
32 as follows:
33 a. Compute the percentage that the county per capita income is of the
34 State per capita income and weight the resulting percentage by a
35 factor of five-tenths,
36 b. Compute the percentage that the anticipated total county revenue
37 availability per student is of the anticipated State average revenue
38 availability per student and weight the resulting percentage by a
39 factor of four-tenths,
40 c. Compute the percentage that the county-adjusted property tax base
41 per square mile is of the State-adjusted property tax base per square
42 mile and weight the resulting percentage by a factor of one-tenth,
43 d. Add the three weighted percentages to derive the county wealth as a
44 percentage of the State average wealth.
- 45 (9) "Effective county tax rate" means the actual county tax rate multiplied by a
46 weighted average of the three most recent annual sales assessment ratio
47 studies.
- 48 (10) "Effective State average tax rate" means the average of effective county tax
49 rates for all counties.
- 50 (10a) "Local current expense funds" means the most recent county current expense
51 appropriations to public schools, as reported by local boards of education in

1 the audit report filed with the Secretary of the Local Government
2 Commission pursuant to G.S. 115C-447.

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

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

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

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

17 (14a) "Supplant" means to decrease local per student current expense
18 appropriations from one fiscal year to the next fiscal year.

19 (15) "Weighted average of the three most recent annual sales assessment ratio
20 studies" means the weighted average of the three most recent annual sales
21 assessment ratio studies in the most recent years for which county current
22 expense appropriations and adjusted property tax valuations are available. If
23 real property in a county has been revalued one year prior to the most recent
24 sales assessment ratio study, a weighted average of the two most recent sales
25 assessment ratios shall be used. If property has been revalued the year of the
26 most recent sales assessment ratio study, the sales assessment ratio for the
27 year of revaluation shall be used.

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

32 **SECTION 7.6.(e) Allocation of Funds.** – Except as provided in subsection (g) of
33 this section, the amount received per average daily membership for a county shall be the
34 difference between the State average current expense appropriations per student and the current
35 expense appropriations per student that the county could provide given the county's wealth and
36 an average effort to fund public schools. (To derive the current expense appropriations per
37 student that the county could be able to provide given the county's wealth and an average effort
38 to fund public schools, multiply the county wealth as a percentage of State average wealth by
39 the State average current expense appropriations per student.) The funds for the local school
40 administrative units located in whole or in part in the county shall be allocated to each local
41 school administrative unit located in whole or in part in the county based on the average daily
42 membership of the county's students in the school units. If the funds appropriated for
43 supplemental funding are not adequate to fund the formula fully, each local school
44 administrative unit shall receive a pro rata share of the funds appropriated for supplemental
45 funding.

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

1 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective tax
2 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that
3 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall
4 receive reduced funding under this section. This reduction in funding shall be determined by
5 subtracting the amount that the county would have received pursuant to Section 17.1(g) of
6 Chapter 507 of the 1995 Session Laws from the amount that the county would have received if
7 qualified for full funding and multiplying the difference by ten percent (10%). This method of
8 calculating reduced funding shall apply one time only. This method of calculating reduced
9 funding shall not apply in cases in which the effective tax rate fell below the statewide average
10 effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the
11 minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507
12 of the 1995 Session Laws. If the county documents that it has increased the per student
13 appropriation to the school current expense fund in the current fiscal year, the State Board of
14 Education shall include this additional per pupil appropriation when calculating minimum
15 effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

16 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local school
17 administrative unit receives funds under this section shall use the funds to supplement local
18 current expense funds and shall not supplant local current expense funds. For the 2009-2011
19 fiscal biennium, the State Board of Education shall not allocate funds under this section to a
20 county found to have used these funds to supplant local per student current expense funds. The
21 State Board of Education shall make a finding that a county has used these funds to supplant
22 local current expense funds in the prior year, or the year for which the most recent data are
23 available, if:

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

31 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the Joint
32 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties
33 have supplanted funds.

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

43 44 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

45 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in
46 subsection (b) of this section, the State Board of Education shall allocate funds appropriated for
47 small school system supplemental funding (i) to each county school administrative unit with an
48 average daily membership of fewer than 3,175 students and (ii) to each county school
49 administrative unit with an average daily membership from 3,175 to 4,000 students if the
50 county in which the local school administrative unit is located has a county-adjusted property
51 tax base per student that is below the State-adjusted property tax base per student and if the

1 total average daily membership of all local school administrative units located within the
2 county is from 3,175 to 4,000 students. The allocation formula shall:

- 3 (1) Round all fractions of positions to the next whole position.
- 4 (2) Provide five and one-half additional regular classroom teachers in counties
5 in which the average daily membership per square mile is greater than four,
6 and seven additional regular classroom teachers in counties in which the
7 average daily membership per square mile is four or fewer.
- 8 (3) Provide additional program enhancement teachers adequate to offer the
9 standard course of study.
- 10 (4) Change the duty-free period allocation to one teacher assistant per 400
11 average daily membership.
- 12 (5) Provide a base for the consolidated funds allotment of at least seven hundred
13 forty thousand seventy-four dollars (\$740,074), excluding textbooks for the
14 2009-2010 fiscal year and a base of seven hundred forty thousand
15 seventy-four dollars (\$740,074) for the 2010-2011 fiscal year.
- 16 (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If
17 funds appropriated for each fiscal year for small school system supplemental
18 funding are not adequate to fully fund the program, the State Board of
19 Education shall reduce the amount allocated to each county school
20 administrative unit on a pro rata basis. This formula is solely a basis for
21 distribution of supplemental funding for certain county school administrative
22 units and is not intended to reflect any measure of the adequacy of the
23 educational program or funding for public schools. The formula is also not
24 intended to reflect any commitment by the General Assembly to appropriate
25 any additional supplemental funds for such county administrative units.

26 **SECTION 7.7.(b) Nonsupplant Requirement.** – A county in which a local school
27 administrative unit receives funds under this section shall use the funds to supplement local
28 current expense funds and shall not supplant local current expense funds. For the 2009-2011
29 fiscal biennium, the State Board of Education shall not allocate funds under this section to a
30 county found to have used these funds to supplant local per student current expense funds. The
31 State Board of Education shall make a finding that a county has used these funds to supplant
32 local current expense funds in the prior year, or the year for which the most recent data are
33 available, if:

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

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

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

- 48 (1) "Average daily membership" means within two percent (2%) of the average
49 daily membership as defined in the North Carolina Public Schools Allotment
50 Policy Manual adopted by the State Board of Education.

- 1 (2) "County-adjusted property tax base per student" means the total assessed
2 property valuation for each county, adjusted using a weighted average of the
3 three most recent annual sales assessment ratio studies, divided by the total
4 number of students in average daily membership who reside within the
5 county.
- 6 (2a) "Local current expense funds" means the most recent county current expense
7 appropriations to public schools, as reported by local boards of education in
8 the audit report filed with the Secretary of the Local Government
9 Commission pursuant to G.S. 115C-447.
- 10 (3) "Sales assessment ratio studies" means sales assessment ratio studies
11 performed by the Department of Revenue under G.S. 105-289(h).
- 12 (4) "State-adjusted property tax base per student" means the sum of all
13 county-adjusted property tax bases divided by the total number of students in
14 average daily membership who reside within the State.
- 15 (4a) "Supplant" means to decrease local per student current expense
16 appropriations from one fiscal year to the next fiscal year.
- 17 (5) "Weighted average of the three most recent annual sales assessment ratio
18 studies" means the weighted average of the three most recent annual sales
19 assessment ratio studies in the most recent years for which county current
20 expense appropriations and adjusted property tax valuations are available. If
21 real property in a county has been revalued one year prior to the most recent
22 sales assessment ratio study, a weighted average of the two most recent sales
23 assessment ratios shall be used. If property has been revalued during the year
24 of the most recent sales assessment ratio study, the sales assessment ratio for
25 the year of revaluation shall be used.

26 **SECTION 7.7.(e) Reports.** – The State Board of Education shall report to the Joint
27 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties
28 have supplanted funds.

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

40 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

41 **SECTION 7.8.(a)** Funds are appropriated in this act to address the capacity needs
42 of local school administrative units to meet the needs of disadvantaged students. Each local
43 school administrative unit shall use funds allocated to it for disadvantaged student supplemental
44 funding to implement a plan jointly developed by the unit and the LEA Assistance Program
45 team. The plan shall be based upon the needs of students in the unit not achieving grade level
46 proficiency. The plan shall detail how these funds shall be used in conjunction with all other
47 supplemental funding allotments such as Low-Wealth, Small County, At-Risk Student
48 Services/Alternative Schools, and Improving Student Accountability, to provide instructional
49 and other services that meet the educational needs of these students. Prior to the allotment of
50

1 disadvantaged student supplemental funds, the plan shall be approved by the State Board of
2 Education.

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

- 5 (1) Provide instructional positions or instructional support position and/or
6 professional development;
- 7 (2) Provide intensive in-school and/or after-school remediation;
- 8 (3) Purchase diagnostic software and progress monitoring tools; and
- 9 (4) Provide funds for teacher bonuses and supplements. The State Board of
10 Education shall set a maximum percentage of the funds that may be used for
11 this purpose.

12 The State Board of Education may require districts receiving funding under the Disadvantaged
13 Student Supplemental Fund to purchase the Education Value Added Assessment System in
14 order to provide in-depth analysis of student performance and help identify strategies for
15 improving student achievement. This data shall be used exclusively for instructional and
16 curriculum decisions made in the best interest of children and for professional development for
17 their teachers and administrators.

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

- 22 (1) For counties with wealth greater than ninety percent (90%) of the statewide
23 average, a ratio of 19:9;
- 24 (2) For counties with wealth not less than eighty percent (80%) and not greater
25 than ninety percent (90%) of the statewide average, a ratio of 1:19.4;
- 26 (3) For counties with wealth less than eighty percent (80%) of the statewide
27 average, a ratio of 1:19.1; and
- 28 (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs
29 shall receive no less than the DSSF amount allotted in 2006-2007.

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

32 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

35 The State Board shall allocate these funds to local school administrative units and to
36 charter schools under a formula that takes into account the average percentage of students in
37 the units or the charters over the past three years who have limited English proficiency. The
38 State Board shall allocate funds to a unit or a charter school only if (i) average daily
39 membership of the unit or the charter school includes at least 20 students with limited English
40 proficiency or (ii) students with limited English proficiency comprise at least two and one-half
41 percent (2.5%) of the average daily membership of the unit or charter school. For the portion of
42 the funds that is allocated on the basis of the number of identified students, the maximum
43 number of identified students for whom a unit or charter school receives funds shall not exceed
44 ten and six-tenths percent (10.6%) of its average daily membership.

45 Local school administrative units shall use funds allocated to them to pay for
46 classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional
47 supplies/equipment, transportation costs, and staff development of teachers for students with
48 limited English proficiency. A county in which a local school administrative unit receives funds
49 under this section shall use the funds to supplement local current expense funds and shall not
50 supplant local current expense funds.
51

1 **SECTION 7.9.(b)** The Department of Public Instruction shall prepare a current
2 head count of the number of students classified with limited English proficiency by December
3 1 of each year. Students in the head count shall be assessed at least once every three years to
4 determine their level of English proficiency. A student who scores "superior" on the standard
5 English language proficiency assessment instrument used in this State shall not be included in
6 the head count of students with limited English proficiency.
7

8 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

9 **SECTION 7.10.** The State Board of Education may use up to two hundred
10 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment
11 each year for the 2009-2010 fiscal year and for the 2010-2011 fiscal year to implement
12 G.S. 115C-12(24).
13

14 **SCHOOL CONNECTIVITY INITIATIVE**

15 **SECTION 7.11.(a)** Up to three hundred thousand dollars (\$300,000) may be
16 transferred to the Office of the Governor for NC Virtual (NCV) within the Education Cabinet.
17 These funds may be used for services to coordinate e-learning activities across all State
18 educational agencies.

19 **SECTION 7.11.(b)** Of the funds allocated for the School Connectivity Initiative,
20 the sum of two hundred fifty thousand dollars (\$250,000) may be used to sustain the Education
21 E-Learning Portal.

22 **SECTION 7.11.(c)** Funds allocated to the School Connectivity Initiative shall
23 carry forward to the next fiscal year until the project is fully implemented by June 30, 2010.
24

25 **LITIGATION RESERVE FUNDS**

26 **SECTION 7.12.** The State Board of Education may expend up to five hundred
27 thousand dollars (\$500,000) each year for the 2009-2010 and 2010-2011 fiscal years from
28 unexpended funds for certified employees' salaries to pay expenses related to pending
29 litigation.
30

31 **REPLACEMENT SCHOOL BUSES FUNDS**

32 **SECTION 7.13.(a)** The State Board of Education may impose any of the following
33 conditions on allotments to local boards of education for replacement school buses:

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

1 **SECTION 7.13.(b)** Any term contract for the purchase or lease-purchase of school
2 buses or school activity buses shall not require vendor payment of the electronic procurement
3 transaction fee of the North Carolina E-Procurement Service.
4

5 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

6 **SECTION 7.14.(a)** If the State Board of Education does not have sufficient
7 resources in the ADM Contingency Reserve line item to make allotment adjustments in
8 accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina
9 Public Schools Allotment Policy Manual, the State Board of Education may use funds
10 appropriated to State Aid for Public Schools for this purpose.

11 **SECTION 7.14.(b)** If the higher of the first or second month average daily
12 membership in a local school administrative unit is at least two percent (2%) or 100 students
13 lower than the anticipated average daily membership used for allotments for the unit, the State
14 Board of Education shall reduce allotments for the unit. The reduced allotments shall be based
15 on the higher of the first or second month average daily membership plus one-half of the
16 number of students overestimated in the anticipated average daily membership.

17 The allotments reduced pursuant to this subsection shall include only those
18 allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth
19 provisions of the North Carolina Public Schools Allotment Policy Manual.
20

21 **CHARTER SCHOOL EVALUATION**

22 **SECTION 7.15.(a)** The State Board of Education may spend up to fifty thousand
23 dollars (\$50,000) a year from State Aid to Local School Administrative Units for the
24 2009-2010 and 2010-2011 fiscal years to evaluate charter schools. In particular, the State Board
25 of Education shall consider the extent to which charter schools have accomplished the
26 following six objectives, which are set out in G.S. 115C-238.29A:

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

41 **SECTION 7.15.(b)** The State Board of Education shall report the results of its
42 evaluation to the Joint Legislative Education Oversight Committee and the Fiscal Research
43 Division.
44

45 **MENTOR TEACHER FUNDS**

46 **SECTION 7.16.(a)** The State Board of Education shall allot funds for mentoring
47 services to local school administrative units based on the highest number of employees in the
48 preceding three school years who (i) are paid with State, federal, or local funds and (ii) are
49 either teachers paid on the first or second steps of the teacher salary schedule or instructional
50 support personnel paid on the first step of the instructional support personnel salary schedule.

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

5 **SECTION 7.16.(b)** The State Board of Education shall grant flexibility to a local
6 board of education regarding the use of mentor funds to provide mentoring support, provided
7 the local board submits a detailed plan on the use of the funds to the State Board and the State
8 Board approves that plan. The plan shall include information on how all mentors in the local
9 school administrative unit have been or will be adequately trained to provide mentoring
10 support.

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

15 **SECTION 7.16.(c)** Each local board of education with a plan approved pursuant to
16 subsection (b) of this section shall report to the State Board on the impact of its mentor
17 program on teacher retention. The State Board shall analyze these reports to determine the
18 characteristics of mentor programs that are most effective in retaining teachers and shall report
19 its findings to the Joint Legislative Education Oversight Committee by October 15 of each year
20 of the biennium.

21 **SECTION 7.16.(d)** In addition to the report required in subsection (c) of this
22 section, the State shall also evaluate the effectiveness of a representative sample of local
23 mentor programs and report on its findings to the Joint Legislative Education Oversight
24 Committee and the Fiscal Research Division by December 15 of each year of the biennium.
25 The evaluation shall focus on quantitative evidence, quality of service delivery, and satisfaction
26 of those involved. The report shall include the results of the evaluation and recommendations
27 both for improving mentor programs generally and for an appropriate level of State support for
28 mentor programs.

29 **LEARN AND EARN HIGH SCHOOLS**

30 **SECTION 7.17.(a)** Funds are appropriated in this act for the Learn and Earn high
31 school workforce development program. The purpose of the program is to create rigorous and
32 relevant high school options that provide students with the opportunity and assistance to earn
33 an associate degree or two years of college credit by the conclusion of the year after their senior
34 year in high school. The State Board of Education shall work closely with the Education
35 Cabinet and the New Schools Project in administering the program.

36 **SECTION 7.17.(b)** These funds shall be used to establish new high schools in
37 which a local school administrative unit, two- and four-year colleges and universities, and local
38 employers work together to ensure that high school and postsecondary college curricula operate
39 seamlessly and meet the needs of participating employers. Funds shall not be allotted until
40 Learn and Earn high schools are certified as operational.

41 **SECTION 7.17.(c)** During the first year of its operation, a high school established
42 under G.S. 115C-238.50 shall be allotted a principal regardless of the number of State-paid
43 teachers assigned to the school or the number of students enrolled in the school. The budget
44 flexibility authorized by G.S. 115C-105.25 does not apply to these positions.

45 **SECTION 7.17.(d)** The State Board of Education, in consultation with the State
46 Board of Community Colleges and The University of North Carolina Board of Governors, shall
47 conduct an annual evaluation of this program. The evaluation shall include measures as
48 identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and
49 personnel resources were utilized and their impact on student achievement, retention, and
50 employability; (ii) recommended statutory and policy changes; and (iii) recommendations for
51

1 improvement of the program. The State Board of Education shall report the results of this
2 evaluation to the Office of State Budget and Management, the Joint Legislative Education
3 Oversight Committee, and the Fiscal Research Division by January 15 of each fiscal year.

4 **SECTION 7.17.(e)** Enrollment fees and tuition for The University of North
5 Carolina courses in which Learn and Earn students are enrolled are allowable uses of these
6 funds. Tuition costs may include laboratory fees assessed to all students enrolled in the course
7 or a similar course.

8 **SECTION 7.17.(f)** Textbooks required for college courses in which Learn and
9 Earn students are enrolled may be purchased with these funds.

10 **SECTION 7.17.(g)** Payment of fees from these funds by local school
11 administrative units to partnering community colleges and universities are restricted to
12 technology or course fees. Funds appropriated in this act shall not be used to support the cost of
13 athletic or other student activity or campus fees not required by enrollment in a specific course.

14 **SECTION 7.17.(h)** The State Board of Education shall allot funds for university
15 enrollment, tuition and fees, and textbooks on the basis of and after verification of the credit
16 hour enrollment of Learn and Earn students in university courses. The State Board of Education
17 shall allot funds for community college fees and textbooks on the basis of and after verification
18 of the credit hour enrollment of Learn and Earn students in community college courses.

19 20 **MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS**

21 **SECTION 7.18.(a)** The Department of Public Instruction shall continue the
22 implementation of the More at Four prekindergarten program for at-risk four-year-olds who are
23 at risk of failure in kindergarten. The program is available statewide to all counties that choose
24 to participate, including underserved areas. The goal of the program is to provide quality
25 prekindergarten services to a greater number of at-risk children in order to enhance
26 kindergarten readiness for these children. The program shall be consistent with standards and
27 assessments established jointly by the Department of Health and Human Services and the
28 Department of Public Instruction. The program shall include:

- 29 (1) A process and system for identifying children at risk of academic failure.
- 30 (2) A process and system for identifying children who are not being served in
31 formal early education programs, such as child care, public or private
32 preschools, Head Start, Early Head Start, early intervention programs, or
33 other such programs, who demonstrate educational needs, and who are
34 eligible to enter kindergarten the next school year, as well as children who
35 are underserved.
- 36 (3) A curriculum or several curricula that are research-based and/or built on
37 sound instructional theory. These curricula shall: (i) focus primarily on oral
38 language and emergent literacy; (ii) engage children through key
39 experiences and provide background knowledge requisite for formal learning
40 and successful reading in the early elementary years; (iii) involve active
41 learning; (iv) promote measurable kindergarten language-readiness skills
42 that focus on emergent literacy and mathematical skills; and (v) develop
43 skills that will prepare children emotionally and socially for kindergarten.
- 44 (4) An emphasis on ongoing family involvement with the prekindergarten
45 program.
- 46 (5) Evaluation of child progress through a statewide evaluation, as well as
47 ongoing assessment of the children by teachers.
- 48 (6) Guidelines for a system to reimburse local school boards and systems,
49 private child care providers, and other entities willing to establish and
50 provide prekindergarten programs to serve at-risk children.

- 1 (7) A system built upon existing local school boards and systems, private child
2 care providers, and other entities that demonstrate the ability to establish or
3 expand prekindergarten capacity.
- 4 (8) A quality-control system. Participating providers shall comply with
5 standards and guidelines as established by the Department of Health and
6 Human Services and the Department of Public Instruction. The Department
7 may use the child care rating system to assist in determining program
8 participation.
- 9 (9) Standards for minimum teacher qualifications. A portion of the classroom
10 sites initially funded shall have at least one teacher who is certified or
11 provisionally certified in birth-to-kindergarten education.
- 12 (10) A local contribution. Programs must demonstrate that they are accessing
13 resources other than More at Four.
- 14 (11) A system of accountability to include a yearly review. The Department shall
15 contract with an independent research organization to produce an annual
16 report to include longitudinal review of the program and academic,
17 behavioral, and other child-specific outcomes. The review shall include a
18 quasi-experimental research design of a representative sample of children
19 who complete the More at Four program every year and shall report on their
20 sustained progress until the end of grade 9. The review shall also study a
21 representative sample of children who do not enter the More at Four
22 program but who are of the same grade level and demographic as those who
23 complete the program and their sustained progress shall also be reviewed
24 until the end of grade 9. The review shall be presented to the Joint
25 Legislative Education Oversight Committee by January 31 of every year.
- 26 (12) Consideration of the reallocation of existing funds. In order to maximize
27 current funding and resources, the Department of Health and Human
28 Services and the Department of Public Instruction shall consider the
29 reallocation of existing funds from State and local programs that provide
30 prekindergarten-related care and services.

31 **SECTION 7.18.(b)** The Department of Public Instruction, in collaboration with the
32 Department of Health and Human Services, shall implement a plan to expand More at Four
33 program standards within existing resources to include four- and five-star-rated centers and
34 schools serving four-year-olds and develop guidelines for these programs. The "NC
35 Prekindergarten Program Standards" initiative shall recognize four- and five-star-rated centers
36 that choose to apply and meet equivalent More at Four program standards as high quality
37 prekindergarten classrooms. Classrooms meeting these standards shall have access to training
38 and workshops for More at Four programs. Whenever expansion slots are available, these
39 classrooms shall have first priority to receive them.

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

44 **SECTION 7.18.(c)** The Department of Public Instruction shall submit a report by
45 February 1, 2010, to the Joint Legislative Commission on Governmental Operations, the Joint
46 Legislative Education Oversight Committee, the Senate Appropriations Committee on
47 Education, the House of Representatives Appropriations Subcommittee on Education, and the
48 Fiscal Research Division. This final report shall include the following:

- 49 (1) The number of children participating in the program.
50 (2) The number of children participating in the program who have never been
51 served in other early education programs, such as child care, public or

1 private preschool, Head Start, Early Head Start, or early intervention
2 programs.

3 (3) The expected expenditures for the programs and the source of the local
4 match for each grantee.

5 (4) The location of program sites and the corresponding number of children
6 participating in the program at each site.

7 (5) A comprehensive cost analysis of the program, including the cost per child
8 served by the program.

9 (6) The status of the NC prekindergarten initiatives as outlined in this section.

10 **SECTION 7.18.(d)** For the 2009-2010 and the 2010-2011 fiscal years, the More at
11 Four program shall establish income eligibility requirements for the program not to exceed
12 seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children
13 enrolled may have family incomes in excess of seventy-five percent (75%) of median income if
14 they have other designated risk factors."

15 **SECTION 7.18.(e)** The More at Four program funding shall not supplant any
16 funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of
17 existing four-year-old classrooms with More at Four program funding shall be permitted when
18 current funding is eliminated, reduced, or redirected as required to meet other specified federal
19 or State educational mandates."

20 **SECTION 7.18.(f)** If a county is unable to increase More at Four slots because of a
21 documented lack of available resources necessary to provide the required local contribution for
22 the additional slots allocated to the county for the 2009-2010 fiscal year or the 2010-2011 fiscal
23 year, the contract agency for that county may appeal to the Office of School Readiness for an
24 exception to the required local amount for those additional slots. The Office of School
25 Readiness may grant an exception and allot funds to pay up to ninety percent (90%) of the full
26 cost of the additional slots for that county if it finds that (i) there is in fact a documented lack of
27 available resources in the county and (ii) granting the exception will not reduce access
28 statewide to More at Four slots."

30 **DROPOUT PREVENTION GRANTS**

31 **SECTION 7.19.(a)** Dropout Prevention Grants. – The Committee on Dropout
32 Prevention, as reestablished in Section 7.14 of S.L. 2008-107, shall select grant recipients as
33 follows:

34 (1) Using the process for the review of grant applications in 2007, the
35 Committee shall establish a cutoff score and award grants to applicants that
36 meet the cutoff score.

37 (2) From the recipients of grants awarded under S.L. 2008-107, the Committee
38 may establish a process to award additional funds to those grantees.

39 (3) Using the process outlined in Section 7.32(d) of S.L. 2007-323 consistent
40 with subsection (b) of this section, the Committee may award grants to new
41 applicants that did not apply for funding under that act.

42 **SECTION 7.19.(b)** Criteria for Dropout Prevention Grants. – The following
43 criteria apply to all types of dropout prevention grants approved by the Committee:

44 (1) Grants shall be issued in varying amounts up to a maximum of one hundred
45 fifty thousand dollars (\$150,000).

46 (2) These grants shall be provided to innovative programs and initiatives that
47 target students at risk of dropping out of school and that demonstrate the
48 potential to (i) be developed into effective, sustainable, and coordinated
49 dropout prevention and reentry programs in middle schools and high schools
50 and (ii) serve as effective models for other programs.

- 1 (3) Priority shall be given to new programs and initiatives or to those that have
2 begun within the last five school years.
- 3 (4) Grants shall be distributed geographically throughout the State and
4 throughout the eight educational districts as defined in G.S. 115C-65. No
5 more than three grants shall be awarded in any one county under this section
6 in a single fiscal year.
- 7 (5) Grants may be made to local school administrative units, schools, local
8 agencies, or nonprofit organizations.
- 9 (6) Grants shall be to programs and initiatives that hold all students to high
10 academic and personal standards.
- 11 (7) Grant applications shall state (i) how grant funds will be used, (ii) what, if
12 any, other resources will be used in conjunction with the grant funds, (iii)
13 how the program or initiative will be coordinated to enhance the
14 effectiveness of existing programs, initiatives, or services in the community,
15 and (iv) a process for evaluating the success of the program or initiative.
- 16 (8) Programs and initiatives that receive grants under this section shall be based
17 on best practices for helping at-risk students achieve successful academic
18 progress, preventing students from dropping out of school, or for increasing
19 the high school completion rate for those students who already have dropped
20 out of school.
- 21 (9) Priority for grants shall be given to proposals that demonstrate input from
22 the local community and coordination with other available programs or
23 resources.
- 24 (10) Grantees shall assure their compliance with applicable laws and rules
25 regulating conflicts of interest.
- 26 (11) Priority for grants shall be given to programs that would serve students in
27 local schools that have a four-year cohort graduation rate of less than
28 sixty-five percent (65%) and that are from counties that did not receive
29 funding under S.L. 2007-323. The Committee shall establish a grant rating
30 cutoff score at such a level as to allow for consideration of all viable grants
31 in this priority category. The Committee may require grantees to provide
32 supplemental information in response to any prior reviewer comments.
- 33 (12) The demonstrated need for a grant, level of collaboration, ability to increase
34 attendance, persistence, academic success, ability to increase parental
35 involvement, and graduation shall be given more weight than the quality of
36 the written grant.
- 37 (13) Grants shall be made no later than November 1, 2009.

38 The Committee shall report to the Joint Legislative Commission on Dropout
39 Prevention and High School Graduation and the Joint Legislative Education Oversight
40 Committee on the grants awarded under this section by March 1, 2010.

41 **SECTION 7.19.(c)** Evaluation. – The Committee shall evaluate the impact of the
42 dropout prevention grants awarded under this section. In evaluating the impact of the grants,
43 the Committee shall consider:

- 44 (1) How grant funds were used, including the services provided for teen
45 pregnancy prevention and for pregnant and parenting teens;
- 46 (2) The success of the program or initiative, as indicated by the evaluation
47 process stated in its grant application;
- 48 (3) The extent to which the program or initiative has improved students'
49 attendance, test scores, persistence, and graduation rates;
- 50 (4) How the program or initiative was coordinated to enhance the effectiveness
51 of existing programs, initiatives, or services in the community;

- 1 (5) What, if any, other resources were used in conjunction with the grant funds;
- 2 (6) The sustainability of the program;
- 3 (7) The number, gender, ethnicity, and grade level of students being served as
- 4 well as whether the student left school due to pregnancy or parenting
- 5 responsibilities;
- 6 (8) The potential for the program to serve as a model for achieving successful
- 7 academic progress for at-risk students; and
- 8 (9) Other indicators of the impact of the grant on dropout prevention.

9 The recipients of the dropout prevention grants awarded under this section shall
10 report to the Committee on Dropout Prevention by January 31, 2011, and by September 30,
11 2011. The reports shall provide information to assist the Committee in conducting its
12 evaluation. The reports shall include a statement that the recipients used grant funds for the
13 purposes appropriated by the General Assembly and complied with applicable laws,
14 regulations, and terms and conditions of the grant documents. The Committee shall make an
15 interim report of the results of its evaluation of the grants awarded under this section by March
16 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School
17 Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall
18 make a final report of the results of its evaluation of the grants awarded under subsection (c) of
19 this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention
20 and High School Graduation and to the Joint Legislative Education Oversight Committee.

21 **SECTION 7.19.(d)** Of the funds appropriated in this act for the Committee on
22 Dropout Prevention, the sum of six million five hundred forty-three thousand sixty dollars
23 (\$6,543,060) for the 2009-2010 and 2010-2011 fiscal years shall be used to award new grants,
24 as well as additional grants to previous grant recipients, in accordance with subsection (b) of
25 this section.

26 **SECTION 7.19.(e)** Funds appropriated for the dropout prevention grants for the
27 2009-2010 fiscal year shall not revert but shall remain available for expenditure until August
28 31, 2011.

29 **SECTION 7.19.(f)** Of the funds appropriated for the dropout prevention grants, the
30 sum of one hundred thousand dollars (\$100,000) for the 2009-2010 and 2010-2011 fiscal years
31 may be used to issue a request for proposals from qualified vendors on a competitive basis to
32 contract as a consultant to assist with the evaluation. The factors to be considered in awarding
33 the contract shall be identified in the request for proposals.

34 **SECTION 7.19.(g)** Of the funds appropriated for the dropout prevention grants,
35 the Department of Public Instruction may use up to fifty thousand dollars (\$50,000) in fiscal
36 years 2009-2010 and 2010-2011 for its administrative assistance to the Committee and provide
37 technical assistance under this section.

38 39 **LEA FLEXIBILITY REDUCTION**

40 **SECTION 7.20.(a)** The State Board of Education is authorized to implement
41 temporary modifications to flexibility requirements outlined in G.S. 115C-105.25. For fiscal
42 years 2009-2010 and 2010-2011, local school administrators shall make every effort to reduce
43 spending whenever and wherever such budget reductions are appropriate as long as the targeted
44 reductions do not directly impact classroom services or any services for students at risk or
45 children with special needs.

46 **SECTION 7.20.(b)** Within 14 days of the date this act becomes law, the State
47 Board of Education shall notify each local school administrative unit and charter school of the
48 amount the unit must reduce from the State General Fund appropriations. The State Board
49 shall determine the amount of the reduction for each unit on the basis of average daily
50 membership.

1 **SECTION 7.20.(c)** Each unit shall report to the Department of Public Instruction
2 on the flexibility budget reductions it has identified for the unit within 30 days of the date this
3 act becomes law.

4 **SECTION 7.20.(d)** The State Board of Education shall make a summary report to
5 the Joint Legislative Education Oversight Committee, the Office of State Budget and
6 Management, and the Fiscal Research Division on all reductions made by the LEAs and charter
7 schools, including an explanation as to the need for the modification to achieve this reduction,
8 by December 15, 2009, and annually thereafter.

9 10 **RESTRUCTURE THE DEPARTMENT OF PUBLIC INSTRUCTION**

11 **SECTION 7.21.(a)** The State Board of Education shall develop a plan to
12 restructure the Department of Public Instruction. The plan shall be reported to the Governor by
13 December 31, 2009.

14 **SECTION 7.21.(b)** Notwithstanding G.S. 143C-6-4, the Department of Public
15 Instruction may reorganize in accordance with the plan adopted by the State Board of
16 Education. The Department shall report to the Joint Legislative Commission on Governmental
17 Operations on the reorganization.

18 **SECTION 7.21.(c)** This section expires June 30, 2010.

19 20 **SCHOOL TECHNOLOGY PILOT**

21 **SECTION 7.22.(a)** Funds appropriated for the School Technology Pilot that are
22 unexpended or unencumbered at the end of the 2008-2009 fiscal year shall not revert but shall
23 remain available for expenditure through June 30, 2010.

24 **SECTION 7.22.(b)** This section becomes effective June 30, 2009.

25 26 **BUSINESS EDUCATION TECHNOLOGY ALLIANCE**

27 **SECTION 7.23.(a)** G.S. 115C-102.15 is repealed.

28 **SECTION 7.23.(b)** This section becomes effective June 30, 2009.

29 30 **CRITICAL FOREIGN LANGUAGE PILOT FUNDS DO NOT REVERT**

31 **SECTION 7.24.(a)** Funds appropriated for the Critical Foreign Language Pilot that
32 are not expended or encumbered shall not revert but shall remain available for expenditure
33 through June 30, 2010.

34 **SECTION 7.24.(b)** This section becomes effective June 30, 2009.

35 36 **ASSESSMENT AND ACCOUNTABILITY**

37 **SECTION 7.25.(a)** Funds appropriated in this act shall be used to develop new
38 End of Course, End of Grade tests or national assessments as determined by the State Board of
39 Education. The development of any new tests replacing End of Course and End of Grade tests
40 shall be aligned with the new essential standards and included in the State Board of Education's
41 ABCs Accountability restructuring plan. The State Board of Education is directed to eliminate
42 unnecessary or duplicative tests and to investigate replacing existing End of Course and End of
43 Grade tests with national assessments.

44 **SECTION 7.25.(b)** Notwithstanding G.S. 115C-174.11, in fiscal year 2009-2010
45 the State Board of Education shall use funds appropriated in this act to investigate and pilot a
46 developmentally appropriate diagnostic assessment for students in elementary grades in
47 2009-2010. This assessment will enable teachers to individualize instruction to meet student
48 learning needs and ensure adequate preparation for the next level of coursework as set out by
49 the Standard Course of Study.

1 **SECTION 7.25.(c)** The State Board of Education shall report the results of the
2 pilot to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and
3 the Office of State Budget and Management by December 1, 2010. =

4 **SECTION 7.25.(d)** Funds appropriated for Assessment and Accountability that
5 remain unexpended and unencumbered at the end of fiscal year 2009-2010 shall not revert but
6 shall remain available for expenditure through June 30, 2011.

7 8 **DEVELOPMENT OF A PREK-20 DATA SYSTEM**

9 **SECTION 7.26.(a)** The Department of Public Instruction, the North Carolina
10 Community College System, and The University of North Carolina shall collaboratively
11 develop and systematically determine the technical specifications and data standards for a
12 PreK-20 data system to centralize student data collected about students enrolled in
13 prekindergarten programs through doctoral programs. The PreK-20 data system shall build
14 upon the current capacity, programs, and initiatives of the Department of Public Instruction, the
15 North Carolina Community College System, and The University of North Carolina.

16 The PreK-20 data standards and specifications shall include:

- 17 (1) The types and forms of data to be included in a PreK-20 data system,
18 including longitudinal data and the use of a unique student identifier;
- 19 (2) The capacity of a shared PreK-20 data system;
- 20 (3) The degree and extent of cooperation between a shared PreK-20 data system
21 and the current data collection systems of the Department of Public
22 Instruction, the North Carolina Community College System, and The
23 University of North Carolina;
- 24 (4) The minimum capacity and technical specifications needed for each data
25 system to feed into a shared PreK-20 data system;
- 26 (5) The ability for data in a shared PreK-20 data system to be understood and
27 used by interested stakeholders, including federal and other North Carolina
28 State agencies.

29 **SECTION 7.26.(b)** Standards and specifications shall conform to the guidelines
30 and instructions governing any funds received through the American Recovery and
31 Reinvestment Act of 2009 for this purpose.

32 **SECTION 7.26.(c)** Standards and specifications shall be submitted to the
33 Education Cabinet no later than January 1, 2010. The Education Cabinet shall review and
34 approve these standards and submit them to the Joint Legislative Education Oversight
35 Committee, the Fiscal Research Division, and the Office of State Budget and Management by
36 March 1, 2010.

37 38 **PROGRAM ON PREVENTION OF ABUSE AND NEGLECT**

39 **SECTION 7.27.(a)** The Children's Trust Fund, a program on prevention of abuse
40 and neglect, is transferred from the Department of Public Instruction to the Division of Social
41 Services in the Department of Health and Human Services, as if by a Type I transfer as defined
42 in G.S. 143A-6, with all the elements of such a transfer.

43 **SECTION 7.27.(b)** G.S. 7B-1301 reads as rewritten:

44 "**§ 7B-1301. Program on Prevention of Abuse and Neglect.**

45 (a) ~~The State Board of Education~~ Department of Health and Human Services, through
46 ~~the Department of Public Instruction~~ Division of Social Services, shall implement the Program
47 on Prevention of Abuse and Neglect. ~~The Department of Public Instruction~~ Division of Social
48 Services, ~~subject to the approval of the State Board of Education~~, shall provide the staff and
49 support services for implementing this program.

50 (b) In order to carry out the purposes of this Article:

- 1 (1) The ~~Department of Public Instruction~~ Division of Social Services shall
2 review applications and make recommendations ~~to the State Board of~~
3 ~~Education~~ concerning the awarding of contracts under this Article.
- 4 (2) The ~~State Board of Education~~ Division of Social Services shall contract with
5 public or private nonprofit organizations, agencies, schools, or with qualified
6 individuals to operate community-based educational and service programs
7 designed to prevent the occurrence of abuse and neglect. Every contract
8 entered into by the ~~State Board of Education~~ Division of Social Services
9 shall contain provisions that at least twenty-five percent (25%) of the total
10 funding required for a program be provided by the administering
11 organization in the form of in-kind or other services and that a mechanism
12 for evaluation of services provided under the contract be included in the
13 services to be performed. In addition, every proposal to the ~~Department of~~
14 ~~Public Instruction~~ Division of Social Services for funding under this Article
15 shall include assurances that the proposal has been forwarded to the local
16 department of social services for comment so that the ~~Department of Public~~
17 ~~Instruction~~ Division of Social Services may consider coordination and
18 duplication of effort on the local level as criteria in making
19 recommendations. ~~to the State Board of Education.~~
- 20 (3) The ~~State Board of Education~~ Division of Social Services, with the
21 assistance of the Department of ~~Public Instruction~~ Health and Human
22 Services, shall develop appropriate guidelines and criteria for awarding
23 contracts under this Article. These criteria shall include, but are not limited
24 to: documentation of need within the proposed geographical impact area;
25 diversity of geographical areas of programs funded under this Article;
26 demonstrated effectiveness of the proposed strategy or program for
27 preventing abuse and neglect; reasonableness of implementation plan for
28 achieving stated objectives; utilization of community resources including
29 volunteers; provision for an evaluation component that will provide outcome
30 data; plan for dissemination of the program for implementation in other
31 communities; and potential for future funding from private sources.
- 32 (4) The ~~State Board of Education~~ Division of Social Services, with the
33 assistance of the Department of ~~Public Instruction~~ Health and Human
34 Services, shall develop guidelines for regular monitoring of contracts
35 awarded under this Article in order to maximize the investments in
36 prevention programs by the Children's Trust Fund and to establish
37 appropriate accountability measures for administration of contracts.
- 38 (5) The ~~State Board of Education~~ Division of Social Services shall develop a
39 State plan for the prevention of abuse and neglect for submission to the
40 Governor, the President of the Senate, and the Speaker of the House of
41 Representatives.
- 42 (c) To assist in implementing this Article, the ~~State Board of Education~~ Division of
43 Social Services may accept contributions, grants, or gifts in cash or otherwise from persons,
44 associations, or corporations. All monies received by the ~~State Board of Education~~ Division of
45 Social Services from contributions, grants, or gifts and not through appropriation by the
46 General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds
47 shall be on the authorization of the ~~State Board of Education~~ or that Board's duly authorized
48 ~~representative~~ Department of Health and Human Services. In order to maintain an effective
49 expenditure and revenue control, the funds are subject in all respects to State law and
50 regulations, but no appropriation is required to permit expenditure of the funds.

1 (d) Programs contracted for under this Article are intended to prevent abuse and neglect
2 of juveniles. Abuse and neglect prevention programs are defined to be those programs and
3 services which impact on juveniles and families before any substantiated incident of abuse or
4 neglect has occurred. These programs may include, but are not limited to:

5 (1) Community-based educational programs on prenatal care, perinatal bonding,
6 child development, basic child care, care of children with special needs, and
7 coping with family stress; and

8 (2) Community-based programs relating to crisis care, aid to parents, and
9 support groups for parents and their children experiencing stress within the
10 family unit.

11 (e) No more than twenty percent (20%) of each year's total awards may be utilized for
12 funding State-level programs to coordinate community-based programs."

13 **SECTION 7.27.(c)** G.S. 7B-1302 reads as rewritten:

14 "**§ 7B-1302. Children's Trust Fund.**

15 (a) There is established a fund to be known as the "Children's Trust Fund," in the
16 Department of State Treasurer, which shall be funded by a portion of the marriage license fee
17 under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The
18 money in the Fund shall be used by the ~~State Board of Education~~ Division of Social Services to
19 fund abuse and neglect prevention programs so authorized by this Article.

20 (b) The Department of ~~Public Instruction~~ Health and Human Services shall report
21 annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative
22 Commission on Governmental Operations."

23 24 **ELIMINATE CERTAIN TESTS**

25 **SECTION 7.28.(a)** The State Board of Education shall identify and eliminate
26 certain unnecessary or duplicative tests not required for high school graduation or by the
27 federal government for No Child Left Behind (NCLB) to determine Adequate Yearly Progress
28 (AYP).

29 **SECTION 7.28.(b)** The State Board of Education shall report on those tests
30 selected for elimination to the Governor and the General Assembly by September 30, 2009.

31 32 **21ST CENTURY CAREER PAY PLAN FOR TEACHERS**

33 **SECTION 7.29.(a)** The North Carolina Professional Teaching Standards
34 Commission (NCPTSC) shall develop a plan to restructure the North Carolina Teacher Salary
35 Schedule. It is North Carolina's goal to have a competitive system of compensation that attracts
36 highly skilled and motivated individuals into the profession. Further, it should compensate
37 teachers' knowledge, skills, and instructional expertise that lead to improved student learning.
38 In developing the restructured salary system, the NCPTSC should consider the following
39 factors:

40 (1) Designs a schedule that emphasizes increasing beginning teacher salary to
41 make the starting salaries more competitive to attract recent graduates and
42 promotes teacher retention.

43 (2) Aligns with the newly adopted North Carolina Professional Teaching
44 Standards.

45 (3) Rewards expert, accomplished teachers for taking on challenging
46 assignments such as working in high-poverty, low-performing schools.

47 (4) Provides incentives for becoming licensed in high-needs subject areas such
48 as math and science and teaching in high-needs areas of the State.

49 (5) Considers research and data that supports improved teaching and learning.

- 1 (6) Provides optional pathways for salary increases that focus on strategies such
2 as National Board Certified Teachers, literacy coach endorsement and other
3 options that lead to improved student learning.

4 **SECTION 7.29.(b)** The NCPTSC is encouraged to seek partnerships with other
5 state and national public and private groups in designing the new compensation system. The
6 NCPTSC shall report on the plan to the State Board of Education, the Joint Legislative
7 Education Oversight Committee, and the Governor no later than January 31, 2010.

8 9 **QUALITY TEACHING AND LEARNING TIME**

10 **SECTION 7.30.** The State Board of Education shall provide guidance to local
11 boards of education and individual schools on maximizing and improving the quality and
12 amount of time spent on teaching and learning during but not limited to the instructional day.
13 They shall include in this guidance how reform initiatives such as the North Carolina Virtual
14 Public School, Learn and Earn Online, Cooperative Innovative High Schools, and Professional
15 Learning Communities provide options for continuous learning that leads to academic success
16 and promotes seamless PreK-20 learning.

17 18 **PART VIII. COMMUNITY COLLEGES**

19 20 **USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM**

21 **SECTION 8.1.(a)** Funds appropriated in this act to the Community Colleges
22 System Office for the College Information System shall not revert at the end of the 2008-2009
23 fiscal year but shall remain available until expended. These funds may be used to purchase
24 periodic system upgrades.

25 **SECTION 8.1.(b)** Notwithstanding G.S. 143C-6-4, the Community Colleges
26 System Office may, subject to the approval of the Office of State Budget and Management, in
27 consultation with the Office of Information Technology Services, use funds appropriated in this
28 act for the College Information System to create a maximum of three positions. Personnel
29 positions created pursuant to this subsection shall be dedicated to maintaining and
30 administering information technology and software upgrades to the College Information
31 System.

32 33 **FUNDS FOR CAMPUS SECURITY**

34 **SECTION 8.2.** Notwithstanding G.S. 115D-32 or any other provision of law, a
35 community college may use up to two percent (2%) of noninstructional State funds allocated to
36 it in the enrollment allotment of the institutional support allotment and up to two percent (2%)
37 of the funds allocated to it through the regular equipment allotment for the 2009-2010 fiscal
38 year for campus security. This may include the hiring of personnel, contracted professional
39 services, surveillance cameras, call boxes, alert systems, and other equipment-related
40 expenditures.

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

43 44 **USE OF BASIC SKILLS FUNDS**

45 **SECTION 8.3.** Notwithstanding any other provision of law, a local community
46 college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board
47 of Community Colleges to procure instructional technology for literacy labs. This technology
48 may include computers, instructional software and software licenses, scanners for testing, and
49 classroom projection equipment.

50 51 **FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS**

1 **SECTION 8.4.** G.S. 115D-40.1 reads as rewritten:

2 "(c) Administration of Program. – The State Board shall adopt rules and policies for the
3 disbursement of the financial assistance provided in this section. Degree, diploma, and
4 certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be
5 eligible for financial assistance. The State Board may contract with the State Education
6 Assistance Authority for administration of these financial assistance funds. These funds shall
7 not revert at the end of each fiscal year but shall remain available until expended for
8 need-based financial assistance. The interest earned on the funds provided in this section may
9 be used to support the costs of administering the Community College Grant Program."

10
11 **CONSOLIDATE NURSING AND ALLIED HEALTH ALLOTMENTS**

12 **SECTION 8.5.** The State Board of Community Colleges shall consolidate the
13 Nursing categorical allotment into the Allied Health categorical allotment before distributing
14 funds appropriated in this act. These funds shall be awarded to community colleges based on
15 the full-time equivalent (FTE) enrollment in allied health programs.

16
17 **MODIFY MULTICAMPUS AND OFF-CAMPUS CENTER REPORT DATE**

18 **SECTION 8.6.** G.S. 115D-5 reads as rewritten:

19 "(o) The General Assembly finds that additional data are needed to determine the
20 adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and
21 colleges with off-campus centers shall report annually, beginning September 1, 2005, to the
22 Community Colleges System Office on all expenditures by line item of funds used to support
23 their multicampuses and off-campus centers. The Community Colleges System Office shall
24 report on these expenditures to the Education Appropriation Subcommittees of the House of
25 Representatives and the Senate, the Office of State Budget and Management, and the Fiscal
26 Research Division by ~~October 1~~ December 1 of each year."

27
28 **REPEAL REPORT ON THE USE OF COMMUNITY COLLEGE FACILITIES BY**
29 **PRIVATE BUSINESSES**

30 **SECTION 8.8.** G.S. 115D-5(q) is repealed.

31
32 **CRIMINAL JUSTICE COORDINATORS TRANSFERRED TO THE SYSTEM**
33 **OFFICE**

34 **SECTION 8.9.** The criminal justice regional coordinators and supporting staff
35 located at community colleges shall be transferred to the Community Colleges System Office.
36 This transfer shall be effective July 1, 2009.

37
38 **EXPAND ELIGIBILITY TO USE PERFORMANCE FUNDING FOR MAINTENANCE**
39 **OF PLANT EXPENDITURES**

40 **SECTION 8.10.** G.S. 115D-31.3 reads as rewritten:

41 "(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to
42 colleges pursuant to this section may be used to supplement local funding for maintenance of
43 plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2,
44 and if the county in which the main campus of the community college is located meets all of
45 the following:

- 46 (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.
47 (2) Had an unemployment rate greater than ~~of at least two percent (2%) above~~
48 the State average or greater than seven percent (7%), whichever is higher, in
49 the prior calendar year.

1 (3) Is a county whose wealth, as calculated under the formula for distributing
2 supplemental funding for schools in low-wealth counties, is eighty percent
3 (80%) or less of the State average.
4 Funds may be used for this purpose only after all local funds appropriated for maintenance of
5 plant have been expended."
6

7 **CUSTOMIZED TRAINING PROGRAM**

8 **SECTION 8.11.(a)** Funds appropriated in this act for the Customized Training
9 Program and unspent and unencumbered by June 30, 2010, may, subject to cash availability
10 and the approval of the Office of State Budget and Management, be carried forward into the
11 2010-2011 fiscal year for equipment purchases. These funds, if carried forward, shall be
12 distributed through the Educational Equipment Reserve.

13 **SECTION 8.11.(b)** Funds appropriated for the Customized Training Program shall
14 be allocated with the first priority use for those projects that create or retain jobs in North
15 Carolina.

16 **SECTION 8.11.(c)** G.S. 115D-5.1(f) is amended by adding a new subsection to
17 read:

18 "(1a) The types of services sought by company, whether for new, expanding, or
19 existing industry."
20

21 **CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS** 22 **BIOTECHNOLOGY TRAINING FUNDS**

23 **SECTION 8.12.(a)** Funds appropriated in S.L. 2006-66, S.L. 2007-323, and S.L.
24 2008-103 for the Rowan-Cabarrus Community College Biotechnology Training Center and
25 Greenhouse at the North Carolina Research Campus in Kannapolis shall not revert but shall
26 remain available until expended.

27 **SECTION 8.12.(b)** This section becomes effective June 30, 2009.
28

29 **LEARN AND EARN ONLINE FUNDS**

30 **SECTION 8.13.(a)** Funds reimbursed to the Community College System for
31 full-time equivalent (FTE) students participating in learn and earn online courses during the
32 2008-2009 fiscal year shall not revert at the end of a fiscal year but shall remain available for
33 expenditure up to 12 months after the close of a fiscal year.

34 **SECTION 8.13.(b)** Community college student enrollments in Learn and Earn
35 Online shall be considered regular budget full-time equivalent (FTE) in the curriculum
36 enrollment formula regardless of the term during which the instruction is provided. The NC
37 Community College System may only seek reimbursement from the Department of Public
38 Instruction for technology and course fees and textbooks required for course participation.

39 **SECTION 8.13.(c)** Subsection (a) of this section becomes effective June 30, 2009.
40 Subsection (b) of this section becomes effective July 1, 2009.
41

42 **COMMUNITY COLLEGE FINANCIAL ASSISTANCE FUND BALANCE SHALL BE** 43 **USED TO OFFER NEED-BASED AID AND ENSURE ACCESS TO DISPLACED** 44 **WORKERS AND INDEPENDENT STUDENTS**

45 **SECTION 8.14.** The balance remaining in Budget Code 66801, Fund 6102 (CCS
46 Financial Assistance) shall be used in the 2009-2010 fiscal year to offer need-based assistance
47 to displaced workers and qualified students. This balance has accumulated due to financial aid
48 refunds received from students in fiscal year 2008-2009 and past fiscal years.
49

50 **COMMUNITY COLLEGE APPRENTICESHIP TRAINING PROGRAM**

1 **SECTION 8.15.(a)** The Community Colleges System Office shall establish an
2 Apprenticeship Training Program that maximizes the development of employer-sponsored
3 flexible training programs. The Apprenticeship Training Program shall leverage existing
4 community college economic development and workforce training programs. Joint delivery of
5 these programs will ensure coordination of program delivery and appropriate classroom
6 training supporting the needs of the client and the employer. The community colleges currently
7 provide the majority of classroom training for Apprenticeship.

8 **SECTION 8.15.(b)** The Community College Apprenticeship Training Program
9 shall include and shall recognize all apprenticeships in North Carolina currently licensed by the
10 U.S. Department of Labor. Apprenticeships licensed after the creation of this program shall
11 conform to the licensure requirements of the U.S. Department of Labor.

12 **SECTION 8.15.(c)** If the Community College Apprenticeship Training Program
13 requires approval by the U.S. Department of Labor, additional apprenticeships may not be
14 licensed until such approval is granted.

15 **SECTION 8.15.(d)** The Community Colleges System Office shall report by March
16 1, 2010, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division,
17 and the Office of State Budget and Management on the creation and implementation of the
18 Community College Apprenticeship Training Program.

19 20 **STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT FLEXIBILITY**

21 **SECTION 8.16.(a)** Due to significant budget adjustments required for the
22 2009-2011 fiscal biennium, the State Board of Community Colleges shall allocate the
23 discretionary budget reductions made in this act. These reductions shall be made in accordance
24 with this act and consistent with G.S. 115D-5(a).

25 **SECTION 8.16.(b)** Within 30 days of the date this act becomes law, the State
26 Board of Community Colleges shall notify each college of the amount the college must reduce
27 from State General Fund appropriations. The State Board shall determine the amount of the
28 reduction for each community college on the basis of FTE enrollment or another method that
29 accounts for the unique needs of specific colleges.

30 **SECTION 8.16.(c)** Colleges are urged to make every effort to reduce spending
31 whenever and wherever such budget reductions are appropriate and to make every effort so that
32 the targeted reductions do not directly impact those services that are involved in training
33 displaced workers and do not reduce Huskins or dual enrollment course offerings offered in
34 conjunction with College Promise. Each college shall report to the State Board of Community
35 Colleges on the discretionary budget reductions it has identified for the college within 60 days
36 of the date this act becomes law.

37 **SECTION 8.16.(d)** By December 15, 2009, the State Board of Community
38 Colleges shall make a summary report to the Joint Legislative Education Oversight Committee,
39 the Office of State Budget and Management, and the Fiscal Research Division on all reductions
40 made by the colleges, including an explanation of the impact of reductions on those services
41 identified as fulfilling a high-need area for the State.

42 **SECTION 8.16.(e)** Discretionary reductions identified in this act for the
43 2009-2010 fiscal year may be allocated to community colleges on a nonrecurring basis. By
44 February 19, 2010, the State Board of Community Colleges shall determine the necessary
45 changes to categorical and formula allotments to make permanent reductions beginning with
46 the 2010-2011 fiscal year.

47 48 **MAINTENANCE OF PLANT FLEXIBILITY**

49 **SECTION 8.17.** Notwithstanding any other provision of law, a community college
50 that received State funds in fiscal year 2008-2009 for maintenance of plant pursuant to
51 G.S. 115D-31.2 may use noninstructional State funds allocated through the institutional support

1 allotment for the 2009-2011 biennium for maintenance of plant costs. The amount of funds
2 used in fiscal year 2009-2010 for these purposes may not exceed the total maintenance of plant
3 funds received in fiscal year 2008-2009. The amount of funds used for these purposes in fiscal
4 year 2010-2011 may not exceed fifty (50%) percent of the amount of maintenance of plant
5 funds received in fiscal year 2008-2009 pursuant to G.S. 115-31.2.

6 7 **PART IX. UNIVERSITIES**

8 9 **USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

10 **SECTION 9.1.(a)** There is appropriated from the Escheat Fund income to the
11 Board of Governors of The University of North Carolina the sum of one hundred twenty-three
12 million six hundred forty-one thousand forty dollars (\$123,641,040) for fiscal years 2009-2010
13 and 2010-2011, to the State Board of Community Colleges the sum of thirteen million nine
14 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for 2009-2010 and
15 2010-2011, and to the Department of Administration, Division of Veterans Affairs, the sum of
16 six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for years
17 2009-2010 and 2010-2011. These funds shall be allocated by the State Educational Assistance
18 Authority for need-based student financial aid in accordance with G.S. 116B-7.

19 If the interest income generated from the Escheat Fund is less than the amounts
20 referenced in this section, the difference may be taken from the Escheat Fund principal to reach
21 the appropriations referenced in this section; however, under no circumstances shall the
22 Escheat Fund principal be reduced below the sum of three hundred million dollars
23 (\$300,000,000).

24 **SECTION 9.1.(b)** The North Carolina State Education Assistance Authority
25 (SEAA) shall perform all of the administrative functions necessary to implement this program
26 of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the
27 Scholarship Programs to determine if allocations are utilized to ensure access to institutions of
28 higher learning and to meet the goals of the respective programs. SEAA may make
29 recommendations for redistribution of funds to The University of North Carolina, Department
30 of Administration, and/or the President of the Community College System regarding their
31 respective scholarship programs, who then may authorize redistribution of unutilized funds for
32 a particular fiscal year.

33 **SECTION 9.1.(c)** There is appropriated from the Escheat Fund to the Board of
34 Governors of The University of North Carolina the sum of one million one hundred fifty-seven
35 thousand dollars (\$1,157,000) for the 2009-2010 and 2010-2011 fiscal years to be allocated to
36 the SEAA for need-based student financial aid to be used in accordance with G.S. 116B-7 and
37 this act. The SEAA shall use these funds only to provide scholarship loans (known as the
38 Millennium Teaching Scholarship Loan Program) to North Carolina high school seniors
39 interested in preparing to teach in the State's public schools who also enroll at any of the
40 Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation
41 of 20 grants of six thousand five hundred dollars (\$6,500) each shall be given to the two
42 universities without any Teaching Fellows for the purposes specified in this subsection. The
43 SEAA shall administer these funds and shall establish any additional criteria needed to award
44 these scholarship loans, the conditions for forgiving the loans, and the collection of the loan
45 repayments when necessary.

46 **SECTION 9.1.(d)** All obligations to students for uses of the funds set out in
47 sections that were made prior to the effective date of Section 9.1(a) shall be fulfilled as to
48 students who remain eligible under the provisions of the respective programs.

49 50 **THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND** 51 **(EARN)**

1 **SECTION 9.2.(a)** There is appropriated from the General Fund to the State
2 Education Assistance Authority the sum of sixty million dollars (\$60,000,000) for the
3 2009-2010 fiscal year and the sum of sixty million dollars (\$60,000,000) for the 2010-2011
4 fiscal year.

5 **SECTION 9.2.(b)** There is appropriated from the Escheat Fund to the State
6 Education Assistance Authority the sum of forty million dollars (\$40,000,000) for the
7 2009-2010 fiscal year and the sum of forty million dollars (\$40,000,000) for the 2010-2011
8 fiscal year.

9 **SECTION 9.2.(c)** Subsections (a) and (b) of this section apply only for academic
10 years beginning on or after July 1, 2009.

11 12 **TRANSFERS OF CASH BALANCES TO THE GENERAL FUND**

13 **SECTION 9.3.(a)** Notwithstanding any other provision of law, the unencumbered
14 cash balance remaining in the Future Teachers Financial Aid fund on June 30, 2009, shall be
15 transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State
16 Transfers).

17 **SECTION 9.3.(b)** Notwithstanding any other provision of law, the unencumbered
18 cash balance of the appropriation remaining in the Education Access Rewards North Carolina
19 (EARN) Scholars fund on June 30, 2009, shall be transferred to the State Controller to be
20 deposited in Nontax Budget Code 19978 (Intra State Transfers).

21 22 **TRANSFER FUNDING TO ROANOKE ISLAND COMMISSION FOR ARTS**

23 **SECTION 9.4.(a)** The funds allocated for the Summer Institute of the North
24 Carolina School of the Arts on Roanoke Island program are transferred from The University of
25 North Carolina System, North Carolina School of the Arts, to the Roanoke Island Commission.
26 To expand opportunities for students involved in the performing arts, the Roanoke Island
27 Commission may use these funds to contract with any of the constituent institutions of The
28 University of North Carolina System to provide music and drama students an education in
29 professional performing environment while providing a public service to the State.

30 **SECTION 9.4.(b)** This section becomes effective July 1, 2009.

31 32 **UNC CENTER FOR ALCOHOL STUDIES**

33 **SECTION 9.5.** The endowment of the Center for Alcohol Studies at the University
34 of North Carolina at Chapel Hill has exceeded ten million dollars (\$10,000,000). This fulfills
35 G.S. 20-7(i1). The fee assessed for this purpose will expire on June 30, 2009.

36 37 **HICKORY METRO HIGHER EDUCATION CENTER MERGER**

38 **SECTION 9.6.** The Hickory Metro Higher Education Center shall be merged with
39 the North Carolina Center for Engineering and Technology. The merged entity shall be
40 referred to as the Hickory Metro Higher Education Center. The new Center shall be
41 administered by The University of North Carolina (with Appalachian State University acting as
42 fiscal agent for the Center). The new Center shall be housed at the current location of the
43 North Carolina Center for Engineering and Technology, as soon as such facilities are prepared
44 for that purpose.

45 46 **REPEAL FULL TUITION GRANT FOR GRADUATES OF NORTH CAROLINA** 47 **SCHOOL OF SCIENCE AND MATH (NCSSM) WHO ATTEND A STATE** 48 **UNIVERSITY.**

49 **SECTION 9.7.(a)** Effective July 1, 2009, tuition grants for graduates of the North
50 Carolina School of Science and Mathematics will be phased out. No new recipients shall be
51 funded after June 30, 2009.

1 **SECTION 9.7.(b)** G.S. 116-238.1(a) reads as rewritten:

2 "(a) There is granted to each State resident who ~~graduates~~ graduated from the North
3 Carolina School of Science and Mathematics on or before January 16, 2009, and who ~~enrolls~~
4 enrolled no later than January 31, 2009, as a full-time student in a constituent institution of The
5 University of North Carolina a sum to be determined by the General Assembly as a tuition
6 grant. The tuition grant shall be for four consecutive academic years and shall cover the tuition
7 cost at the constituent institution in which the student is enrolled. The tuition grant shall be
8 distributed to the student as provided by this section."

9 **SECTION 9.7.(c)** G.S. 116-238.1 is repealed effective July 1, 2012.

10
11 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

12
13 **CHILD CARE SUBSIDY RATES**

14 **SECTION 10.1.(a)** The maximum gross annual income for initial eligibility,
15 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the
16 State median income, adjusted for family size.

17 **SECTION 10.1.(b)** Fees for families who are required to share in the cost of care
18 shall be established based on a percent of gross family income and adjusted for family size.
19 Fees shall be determined as follows:

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

20
21
22
23
24 **SECTION 10.1.(c)** Payments for the purchase of child care services for
25 low-income children shall be in accordance with the following requirements:

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

41 **SECTION 10.1.(d)** Provisions of payment rates for child care providers in counties
42 that do not have at least 50 children in each age group for center-based and home-based care
43 are as follows:

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

1 **SECTION 10.1.(e)** A market rate shall be calculated for child care centers and
2 homes at each rated license level for each county and for each age group or age category of
3 enrollees and shall be representative of fees charged to parents for each age group of enrollees
4 within the county. The Division of Child Development shall also calculate a statewide rate and
5 regional market rates for each rated license level for each age category.

6 **SECTION 10.1.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the
7 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the
8 program that provides for the purchase of care in child care facilities for minor children of
9 needy families. No separate licensing requirements shall be used to select facilities to
10 participate. In addition, child care facilities shall be required to meet any additional applicable
11 requirements of federal law or regulations. Child care arrangements exempt from State
12 regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the
13 requirements established by other State law and by the Social Services Commission.

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

17 **SECTION 10.1.(g)** Payment for subsidized child care services provided with Work
18 First Block Grant funds shall comply with all regulations and policies issued by the Division of
19 Child Development for the subsidized child care program.

20 **SECTION 10.1.(h)** Noncitizen families who reside in this State legally shall be
21 eligible for child care subsidies if all other conditions of eligibility are met. If all other
22 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be
23 eligible for child care subsidies only if at least one of the following conditions is met:

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

30 31 **CHILD CARE ALLOCATION FORMULA**

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

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

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

48 **SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department
49 of Health and Human Services may reallocate up to twenty million dollars (\$20,000,000) in
50 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 or to maximize use of nonrecurring funds that are available.

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.3. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

CHILD CARE REVOLVING LOAN

SECTION 10.4. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

INCREASE/ESTABLISH CHILD CARE LICENSING FEES FOR CHILD CARE FACILITIES

SECTION 10.5. G.S. 110-90 reads as rewritten:

"§ 110-90. Powers and duties of Secretary of Health and Human Services.

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child care facilities.
- (1a) To establish a fee for the licensing of child care facilities. ~~centers~~. The fee does not apply to a religious-sponsored child care facilities ~~center~~-operated pursuant to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

Capacity of <u>Facility</u> Center	Maximum Fee
12 or fewer children	<u>\$52.00</u> \$35.00
13-50 children	<u>\$187.00</u> \$125.00
51-100 children	<u>\$375.00</u> \$250.00
101 or more children	<u>\$600.00</u> \$400.00

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVE ENHANCEMENTS

SECTION 10.6.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

SECTION 10.6.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.

- 1 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen
2 thousand dollars (\$15,000), three written quotes.
- 3 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than
4 forty thousand dollars (\$40,000), a request for proposal process.
- 5 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
6 proposal process and advertising in a major newspaper.

7 **SECTION 10.6.(c)** The North Carolina Partnership for Children, Inc., and all local
8 partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the
9 total amount budgeted for the program in each fiscal year of the biennium as follows:
10 contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal
11 to no more than five percent (5%) for a total match requirement of twenty percent (20%) for
12 each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any
13 amount in excess of the required match for a fiscal year in order to meet the match requirement
14 of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to
15 the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for
16 the purpose of the match requirement of this subsection. Volunteer services that qualify as
17 professional services shall be valued at the fair market value of those services. All other
18 volunteer service hours shall be valued at the statewide average wage rate as calculated from
19 data compiled by the Employment Security Commission in the Employment and Wages in
20 North Carolina Annual Report for the most recent period for which data are available.
21 Expenses, including both those paid by cash and in-kind contributions, incurred by other
22 participating non-State entities contracting with the North Carolina Partnership for Children,
23 Inc., or the local partnerships, also may be considered resources available to meet the required
24 private match. In order to qualify to meet the required private match, the expenses shall:

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

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

46 **SECTION 10.6.(d)** The Department of Health and Human Services shall continue
47 to implement the performance-based evaluation system.

48 **SECTION 10.6.(e)** The Department of Health and Human Services and the North
49 Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early
50 Childhood Education and Development Initiatives for State fiscal years 2009-2010 and
51 2010-2011 shall be administered and distributed in the following manner:

- 1 (1) Capital expenditures are prohibited for fiscal years 2009-2010 and
2 2010-2011. For the purposes of this section, "capital expenditures" means
3 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
4 (2) Expenditures of State funds for advertising and promotional activities are
5 prohibited for fiscal years 2009-2010 and 2010-2011.

6 **SECTION 10.6.(f)** A county may use the county's allocation of State and federal
7 child care funds to subsidize child care according to the county's Early Childhood Education
8 and Development Initiatives Plan as approved by the North Carolina Partnership for Children,
9 Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child
10 care providers shall, at a minimum, comply with the applicable requirements for State licensure
11 pursuant to Article 7 of Chapter 110 of the General Statutes.

12 **SECTION 10.6.(g)** For fiscal years 2009-2010 and 2010-2011, the local
13 partnerships shall spend an amount for child care subsidies that provides at least fifty-two
14 million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child
15 Care Development Fund and Block Grant match requirement.

16 17 **NC HEALTH CHOICE TRANSITION**

18 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human
19 Services shall develop and implement a plan for assuming administrative responsibility for the
20 North Carolina Health Choice for Children program by transitioning all administrative
21 oversight and claims processing activities from the Executive Administrator and Board of
22 Trustees of the State Health Plan for Teachers and State Employees to the Division of Medical
23 Assistance. The transition of all administrative oversight and claims processing from the State
24 Health Plan to the Division of Medical Assistance shall be completed not later than July 1,
25 2010. The Secretary shall report to the Joint Legislative Health Care Oversight Committee and
26 the Committee on Employee Hospital and Medical Benefits at least 30 days prior to effecting
27 the transition of the responsibilities for the administration and processing of claims for benefits
28 provided under the North Carolina Health Choice for Children program from the Executive
29 Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees
30 to the Department.

31 32 **NC HEALTH CHOICE TRANSITION STUDY**

33 **SECTION 10.8.** In consultation with the Department of Health and Human
34 Services, Division of Medical Assistance, and other appropriate organizations, the Office of
35 State Budget and Management (OSBM) shall conduct a study to determine appropriate staffing
36 levels to manage and implement the transition of NC Health Choice from the State Health Plan
37 to the division to ensure that the transition of NC Health Choice occurs with minimal
38 disruption, and that the division has adequate staffing and a organizational structure that fits
39 with its existing structure. OSBM shall produce a report with staffing recommendations by
40 March 1, 2010.

41 42 **CHANGES TO MEDICAL POLICY FOR NC HEALTH CHOICE**

43 **SECTION 10.9.** Chapter 108A of the General Statutes is amended by adding a new
44 section to read:

45 **"§ 108A-54.3. Procedures for changing medical policy.**

46 The Department shall develop, amend, and adopt medical coverage policy in accordance
47 with the following:

- 48 (1) During the development of new medical coverage policy or amendment to
49 existing medical coverage policy applicable to the North Carolina Health
50 Choice Program for Children, consult with and seek the advice of the
51 Physician Advisory Group of the North Carolina Medical Society and other

1 organizations the Secretary deems appropriate. The Secretary shall also
 2 consult with and seek the advice of officials of the professional societies or
 3 associations representing providers who are affected by the new medical
 4 coverage policy or amendments to existing medical coverage policy.

5 (2) At least 45 days prior to the adoption of new or amended medical coverage
 6 policy, the Department shall:

- 7 a. Publish the proposed new or amended medical coverage policy on
 8 the Department's Web site;
- 9 b. Notify all North Carolina Health Choice Program for Children
 10 providers of the proposed, new, or amended policy; and
- 11 c. Upon request, provide persons copies of the proposed medical
 12 coverage policy.

13 (3) During the 45-day period immediately following publication of the proposed
 14 new or amended medical coverage policy, accept oral and written comments
 15 on the proposed new or amended policy.

16 (4) If, following the comment period, the proposed new or amended medical
 17 coverage policy is modified, then the Department shall, at least 15 days prior
 18 to its adoption:

- 19 a. Notify all North Carolina Health Choice Program for Children
 20 providers of the proposed policy;
- 21 b. Upon request, provide persons notice of amendments to the proposed
 22 policy; and
- 23 c. Accept additional oral or written comments during this 15-day
 24 period."

25
 26 **EXEMPTIONS TO RULE MAKING**

27 **SECTION 10.10.** G.S. 150B-1(d)(9) reads as rewritten:

28 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
 29 following:

- 30 ...
- 31 (9) The Department of Health and Human Services in adopting new or
 32 amending existing medical coverage policies under the State Medicaid
 33 Program-Program and the North Carolina Health Choice Program for
 34 Children.

35"

36
 37 **NC HEALTH CHOICE MEDICAL POLICY**

38 **SECTION 10.11.** Unless required for compliance with federal law, the Department
 39 shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC
 40 Health Choice health care services and who may provide services until the Division of Medical
 41 Assistance has prepared a five-year fiscal analysis documenting the increased cost of the
 42 proposed change in medical policy and submitted it for Departmental review. If the fiscal
 43 impact indicated by the fiscal analysis for any proposed medical policy change exceeds one
 44 million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department
 45 shall submit the proposed medical policy change with the fiscal analysis to the Office of State
 46 Budget and Management and the Fiscal Research Division. The Department shall not
 47 implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in
 48 total requirements for a given fiscal year unless the source of State funding is identified and
 49 approved by the Office of State Budget and Management. For medical policy changes
 50 exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are
 51 required for compliance with federal law, the Department shall submit the proposed medical

1 policy or policy interpretation change with a five-year fiscal analysis to the Office of State
2 Budget and Management prior to implementing the change. The Department shall provide the
3 Office of State Budget and Management and the Fiscal Research Division a quarterly report
4 itemizing all medical policy changes with total requirements of less than one million dollars
5 (\$1,000,000).

6 7 **HEALTH CHOICE ENROLLMENT**

8 **SECTION 10.12.** For the fiscal years 2009-2010 and 2010-2011, funds are
9 appropriated to the NC Health Choice program to fully fund projected enrollment. In the event,
10 however, that enrollment grows beyond projections due to the current economic downturn, the
11 Department of Health and Human Services, NC Health Choice (NCHC) shall not start a
12 waiting list but shall use funds available to the Department of Health and Human Services to
13 enroll all eligible children in NCHC.

14 15 **EXPAND HEALTH CHOICE**

16 **SECTION 10.13.** Funds appropriated to the Department of Health and Human
17 Services for NC Kids' Care for the 2009-2011 fiscal biennium shall be used to support the
18 existing NC Health Choice Program to expand access to health insurance to children below two
19 hundred percent (200%) of the federal poverty level effective July 1, 2009, and shall be used to
20 transition the administration of NC Health Choice from the State Health Plan to the Department
21 of Health and Human Services, Division of Medical Assistance.

22 23 **IMPLEMENTATION OF MMIS/CONTRACT PROVISION**

24 **SECTION 10.14.(a)** The Department of Health and Human Services (Department)
25 shall make full development of the replacement Medicaid Management Information System
26 (MMIS) a top priority. During the development and implementation of MMIS, the Department
27 shall develop plans to ensure the timely and effective implementation of enhancements to the
28 system to provide the following capabilities:

- 29 (1) Receiving and tracking premium or other payments required by law.
- 30 (2) Compatibility with the administration of the Health Information System.

31 The Department shall make every effort to expedite the implementation of the
32 enhancements. ITS shall work in cooperation with the Department to ensure the timely and
33 effective implementation of the MMIS and enhancements. The contract between the
34 Department and the contract vendor shall contain an explicit provision requiring that the MMIS
35 have the capability to fully implement the administration of NC Health Choice, NC Kids' Care,
36 Ticket to Work, Families Pay Part of the Cost of Services under the CAP-MR/DD, CAP
37 Children's Program, and all relevant Medicaid waivers and the Medicare 646 waiver as it
38 applies to Medicaid eligibles. The Department must have detailed cost information for each
39 requirement before signing the contract. Any contract between the Department and a vendor for
40 the MMIS that does not contain the explicit provision required under this subsection is void on
41 its face. Notwithstanding any other provision of law to the contrary, the Secretary of the
42 Department of Health and Human Services does not have the authority to sign a contract for the
43 MMIS if the contract does not contain the explicit provision required under this section.

44 **SECTION 10.14.(b)** Notwithstanding G.S. 114-2.3, the Department of Health and
45 Human Services shall engage the services of private counsel with the pertinent information
46 technology and computer law expertise to review requests for proposals and to negotiate and
47 review contracts associated with MMIS. The counsel engaged by the Department shall review
48 the MMIS contract between the Department of Health and Human Services and the vendor to
49 ensure that the requirements of subsection (a) of this section are met in their entirety.

50 **SECTION 10.14.(c)** Of the funds appropriated in this act to the Department of
51 Health and Human Services for the MMIS replacement system, the sum of three hundred

1 thousand dollars (\$300,000) for the 2009-2010 fiscal year may be used to hire time-limited
2 staff to ensure the integration of NC Health Choice into the MMIS project.

3 **SECTION 10.14.(d)** The Department of Health and Human Services shall develop
4 a comprehensive schedule for the development and implementation of the MMIS that fully
5 incorporates federal and State project management and review requirements. The Department
6 shall ensure that the schedule is as accurate as possible. The initial schedule that includes all
7 activities up to contract award must be provided by October 1, 2008. The design, development,
8 and implementation schedule must be provided by March 1, 2009, as part of the Department's
9 quarterly MMIS reporting requirements. The Department shall submit the schedule to the
10 Chairs of the House of Representatives Committee on Appropriations and the House of
11 Representatives Subcommittee on Health and Human Services, the Chairs of the Senate
12 Committee on Appropriations and the Senate Appropriations Committee on Health and Human
13 Services, and the Fiscal Research Division. Any change to key milestones in either schedule
14 shall be immediately reported to the Chairs of the House of Representatives Committee on
15 Appropriations and the House of Representatives Subcommittee on Health and Human
16 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations
17 Committee on Health and Human Services, and the Fiscal Research Division with a full
18 explanation of the reason for the change.

19 **SECTION 10.14.(e)** Beginning July 1, 2009, the Department shall make quarterly
20 reports on changes in the functionality and projected costs of the MMIS. The first quarterly
21 submission shall contain a final report on the contract award to include total costs and
22 functionality of the MMIS. Each report shall be made to the Chairs of the House of
23 Representatives Committee on Appropriations and the House of Representatives Subcommittee
24 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the
25 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
26 Division. A copy of the final report on the contract award shall also be submitted to the Joint
27 Legislative Commission on Governmental Operations.

28 **SECTION 10.14.(f)** Upon initiation of the NC MMIS Program Reporting and
29 Analytics Project and the Division of Health Services Regulation (DHSR) Project, the
30 Department shall submit all reports regarding functionality, schedule, and cost in the next
31 regular cycle of reporting identified in subsections (c) and (d) of this section. The Department
32 shall ensure that the solution developed in the Reporting and Analytics Project supports the
33 capability, in its initial implementation, to interface with the North Carolina State Health Plan
34 for Teachers and State Employees. The costs for this capability shall be negotiated prior to the
35 award of the Reporting and Analytics contract. The Reporting and Analytics solution must be
36 completed simultaneously with the replacement MMIS.

37 38 **MEDICAID**

39 **SECTION 10.15.(a)** Use of Funds, Allocation of Costs, Other Authorizations.

- 40 (1) Use of funds. – Funds appropriated in this act for services provided in
41 accordance with Title XIX of the Social Security Act (Medicaid) are for both
42 the categorically needy and the medically needy.
- 43 (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one
44 hundred percent (100%) of the nonfederal costs of all applicable services
45 listed in this section. In addition, the State shall pay one hundred percent
46 (100%) of the federal Medicare Part D clawback payments under the
47 Medicare Modernization Act of 2004.
- 48 (3) Use of funds for development and acquisition of equipment and software. –
49 If first approved by the Office of State Budget and Management, the
50 Division of Medical Assistance, Department of Health and Human Services,
51 may use funds that are identified to support the cost of development and

1 acquisition of equipment and software and related operational costs through
2 contractual means to improve and enhance information systems that provide
3 management information and claims processing. The Department of Health
4 and Human Services shall identify adequate funds to support the
5 implementation and first year's operational costs that exceed funds allocated
6 for the 2009-2010 and 2010-2011 fiscal years for the new contract for the
7 fiscal agent for the Medicaid Management Information System.

- 8 (4) Reports. – Unless otherwise provided, whenever the Department of Health
9 and Human Services is required by this section to report to the General
10 Assembly, the report shall be submitted to the House of Representatives
11 Appropriations Subcommittee for Health and Human Services, the Senate
12 Appropriations Committee on Health and Human Services, and the Fiscal
13 Research Division of the Legislative Services Office. Reports shall be
14 submitted on the date provided in the reporting requirement.

15 **SECTION 10.15.(b) Policy.**

- 16 (1) Volume purchase plans and single source procurement. – The Department of
17 Health and Human Services, Division of Medical Assistance, may, subject to
18 the approval of a change in the State Medicaid Plan, contract for services,
19 medical equipment, supplies, and appliances by implementation of volume
20 purchase plans, single source procurement, or other contracting processes in
21 order to improve cost containment.
- 22 (2) Cost-containment programs. – The Department of Health and Human
23 Services, Division of Medical Assistance, may undertake cost-containment
24 programs, including contracting for services, preadmissions to hospitals, and
25 prior approval for certain outpatient surgeries before they may be performed
26 in an inpatient setting.
- 27 (3) Fraud and abuse. – The Division of Medical Assistance, Department of
28 Health and Human Services, shall provide incentives to counties that
29 successfully recover fraudulently spent Medicaid funds by sharing State
30 savings with counties responsible for the recovery of the fraudulently spent
31 funds.
- 32 (4) Medical policy. – Unless required for compliance with federal law, the
33 Department shall not change medical policy affecting the amount,
34 sufficiency, duration, and scope of health care services and who may provide
35 services until the Division of Medical Assistance has prepared a five-year
36 fiscal analysis documenting the increased cost of the proposed change in
37 medical policy and submitted it for Departmental review. If the fiscal impact
38 indicated by the fiscal analysis for any proposed medical policy change
39 exceeds three million dollars (\$3,000,000) in total requirements for a given
40 fiscal year, then the Department shall submit the proposed medical policy
41 change with the fiscal analysis to the Office of State Budget and
42 Management and the Fiscal Research Division. The Department shall not
43 implement any proposed medical policy change exceeding three million
44 dollars (\$3,000,000) in total requirements for a given fiscal year unless the
45 source of State funding is identified and approved by the Office of State
46 Budget and Management. For medical policy changes exceeding three
47 million dollars (\$3,000,000) in total requirements for a given fiscal year that
48 are required for compliance with federal law, the Department shall submit
49 the proposed medical policy or policy interpretation change with the
50 five-year fiscal analysis to the Office of State Budget and Management prior
51 to implementing the change. The Department shall provide the Office of

State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars (\$3,000,000).

SECTION 10.15.(c) Eligibility. – Eligibility for Medicaid shall be determined in accordance with the following:

(1) Medicaid and Work First Family Assistance.

a. Income eligibility standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	CATEGORICALLY NEEDY – WFFA*		MEDICALLY NEEDY
	Standard of Need & Families and Families and Children		
Family Size	Children Income Level	WFFA* Payment Level	Children & AA, AB, AD* Income Level
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget.

c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.

d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and

without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

- c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
- d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
- e. Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.
- f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.
- g. Workers with disabilities described in G.S. 108A-54.1 with unearned income equal to or less than one hundred fifty (150%) of the federal poverty guidelines.

(3) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

(4) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the adolescent's assets, resources, or income levels.

(5) ICF and ICF/MR work incentive allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00

(6) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a.(a)(10)(A)(ii)(XVIII).

SECTION 10.15.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the

- 1 State Plan as established by the Department of Health and Human Services and may be
2 changed with the approval of the Director of the Budget.
- 3 (1) Hospital inpatient. – Payment for hospital inpatient services will be
4 prescribed by the State Plan as established by the Department of Health and
5 Human Services.
 - 6 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
7 prospective reimbursement plan as established by the Department of Health
8 and Human Services.
 - 9 (3) Nursing facilities. – Nursing facilities providing services to Medicaid
10 recipients who also qualify for Medicare must be enrolled in the Medicare
11 program as a condition of participation in the Medicaid program. State
12 facilities are not subject to the requirement to enroll in the Medicare
13 program. Residents of nursing facilities who are eligible for Medicare
14 coverage of nursing facility services must be placed in a Medicare-certified
15 bed. Medicaid shall cover facility services only after the appropriate services
16 have been billed to Medicare.
 - 17 (4) Physicians, certified nurse midwife services, certified registered nurse
18 anesthetists, nurse practitioners. – Fee schedules as developed by the
19 Department of Health and Human Services.
 - 20 (5) Community Alternative Program, EPSDT Screens. – Payments in
21 accordance with rate schedule developed by the Department of Health and
22 Human Services.
 - 23 (6) Home health and related services, durable medical equipment. – Payments
24 according to reimbursement plans developed by the Department of Health
25 and Human Services.
 - 26 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
 - 27 (8) Rural health clinical services. – Provider-based, reasonable cost,
28 nonprovider-based, single-cost reimbursement rate per clinic visit.
 - 29 (9) Family planning. – Negotiated rate for local health departments. For other
30 providers see specific services, e.g., hospitals, physicians.
 - 31 (10) Independent laboratory and X-ray services. – Uniform fee schedules as
32 developed by the Department of Health and Human Services.
 - 33 (11) Ambulatory surgical centers.
 - 34 (12) Private duty nursing, clinic services, prepaid health plans.
 - 35 (13) Intermediate care facilities for the mentally retarded.
 - 36 (14) Chiropractors, podiatrists, optometrists, dentists.
 - 37 (15) Limitations on dental coverage. – Dental services shall be provided on a
38 restricted basis in accordance with criteria adopted by the Department to
39 implement this subsection.
 - 40 (16) Medicare Buy-In. – Social Security Administration premium.
 - 41 (17) Ambulance services. – Uniform fee schedules as developed by the
42 Department of Health and Human Services. Public ambulance providers will
43 be reimbursed at cost.
 - 44 (18) Optical supplies. – Payment for materials is made to a contractor in
45 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers
46 are negotiated fees established by the State agency based on industry
47 charges.
 - 48 (19) Medicare crossover claims. – The Department shall apply Medicaid medical
49 policy to Medicare claims for dually eligible recipients. The Department
50 shall pay an amount up to the actual coinsurance or deductible or both, in
51 accordance with the State Plan, as approved by the Department of Health

1 and Human Services. The Department may disregard application of this
2 policy in cases where application of the policy would adversely affect
3 patient care.

4 (20) Physical therapy, occupational therapy, and speech therapy. – Services
5 limited to EPSDT-eligible children. Payments are to be made only to
6 qualified providers at rates negotiated by the Department of Health and
7 Human Services.

8 (21) Personal care services. Payment in accordance with the State Plan developed
9 by the Department of Health and Human Services.

10 (22) Case management services. – Reimbursement in accordance with the
11 availability of funds to be transferred within the Department of Health and
12 Human Services.

13 (23) Hospice.

14 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for
15 reimbursement, providers must be licensed or certified by the occupational
16 licensing board or the certification authority having authority over the
17 provider's license or certification. Medically necessary prosthetics and
18 orthotics are subject to prior approval and utilization review.

19 (25) Health insurance premiums.

20 (26) Medical care/other remedial care. – Services not covered elsewhere in this
21 section include related services in schools; health professional services
22 provided outside the clinic setting to meet maternal and infant health goals;
23 and services to meet federal EPSDT mandates.

24 (27) Pregnancy-related services. – Covered services for pregnant women shall
25 include nutritional counseling, psychosocial counseling, and predelivery and
26 postpartum home visits by maternity care coordinators and public health
27 nurses.

28 (28) Drugs. – Reimbursements. Reimbursements shall be available for
29 prescription drugs as allowed by federal regulations plus a professional
30 services fee per month, excluding refills for the same drug or generic
31 equivalent during the same month. Payments for drugs are subject to the
32 provisions of this subdivision or in accordance with the State Plan adopted
33 by the Department of Health and Human Services, consistent with federal
34 reimbursement regulations. Payment of the professional services fee shall be
35 made in accordance with the State Plan adopted by the Department of Health
36 and Human Services, consistent with federal reimbursement regulations. The
37 professional services fee shall be five dollars and sixty cents (\$5.60) per
38 prescription for generic drugs and four dollars (\$4.00) per prescription for
39 brand-name drugs. Adjustments to the professional services fee shall be
40 established by the General Assembly. In addition to the professional services
41 fee, the Department may pay an enhanced fee for pharmacy services.

42 Limitations on quantity. – The Department of Health and Human
43 Services may establish authorizations, limitations, and reviews for specific
44 drugs, drug classes, brands, or quantities in order to manage effectively the
45 Medicaid pharmacy program, except that the Department shall not impose
46 limitations on brand-name medications for which there is a generic
47 equivalent in cases where the prescriber has determined, at the time the drug
48 is prescribed, that the brand-name drug is medically necessary and has
49 written on the prescription order the phrase "medically necessary."

50 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through
51 G.S. 90-85.31, or any other law to the contrary, under the Medical

1 Assistance Program (Title XIX of the Social Security Act), and except as
2 otherwise provided in this subsection for drugs listed in the narrow
3 therapeutic index, a prescription order for a drug designated by a trade or
4 brand name shall be considered to be an order for the drug by its established
5 or generic name, except when the prescriber has determined, at the time the
6 drug is prescribed, that the brand-name drug is medically necessary and has
7 written on the prescription order the phrase "medically necessary." An initial
8 prescription order for a drug listed in the narrow therapeutic drug index that
9 does not contain the phrase "medically necessary" shall be considered an
10 order for the drug by its established or generic name, except that a pharmacy
11 shall not substitute a generic or established name prescription drug for
12 subsequent brand or trade name prescription orders of the same prescription
13 drug without explicit oral or written approval of the prescriber given at the
14 time the order is filled. Generic drugs shall be dispensed at a lower cost to
15 the Medical Assistance Program rather than trade or brand-name drugs. As
16 used in this subsection, "brand name" means the proprietary name the
17 manufacturer places upon a drug product or on its container, label, or
18 wrapping at the time of packaging; and "established name" has the same
19 meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic
20 Act, as amended, 21 U.S.C. § 352(e)(3).

21 Prior authorization. – The Department of Health and Human Services
22 shall not impose prior authorization requirements or other restrictions under
23 the State Medical Assistance Program on medications prescribed for
24 Medicaid recipients for the treatment of HIV/AIDS.

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

27 a. Services as defined by the Division of Mental Health, Developmental
28 Disabilities, and Substance Abuse Services and approved by the
29 Centers for Medicare and Medicaid Services (CMS) when provided
30 in agencies meeting the requirements of the rules established by the
31 Commission for Mental Health, Developmental Disabilities, and
32 Substance Abuse Services and reimbursement is made in accordance
33 with a State Plan developed by the Department of Health and Human
34 Services not to exceed the upper limits established in federal
35 regulations, and

36 b. For children eligible for EPSDT services provided by:

37 1. Licensed or certified psychologists, licensed clinical social
38 workers, certified clinical nurse specialists in psychiatric
39 mental health advanced practice, nurse practitioners certified
40 as clinical nurse specialists in psychiatric mental health
41 advanced practice, licensed psychological associates, licensed
42 professional counselors, licensed marriage and family
43 therapists, licensed clinical addictions specialists, and
44 certified clinical supervisors, when Medicaid-eligible children
45 are referred by the Community Care of North Carolina
46 primary care physician, a Medicaid-enrolled psychiatrist, or
47 the area mental health program or local management entity,
48 and

49 2. Institutional providers of residential services as defined by the
50 Division of Mental Health, Developmental Disabilities, and
51 Substance Abuse Services and approved by the Centers for

1 Medicare and Medicaid Services (CMS) for children and
2 Psychiatric Residential Treatment Facility services that meet
3 federal and State requirements as defined by the Department.

4 c. For Medicaid-eligible adults, services provided by licensed or
5 certified psychologists, licensed clinical social workers, certified
6 clinical nurse specialists in psychiatric mental health advanced
7 practice, and nurse practitioners certified as clinical nurse specialists
8 in psychiatric mental health advanced practice, licensed
9 psychological associates, licensed professional counselors, licensed
10 marriage and family therapists, certified clinical addictions
11 specialists, and licensed clinical supervisors, Medicaid-eligible adults
12 may be self-referred.

13 d. Payments made for services rendered in accordance with this
14 subdivision shall be to qualified providers in accordance with
15 approved policies and the State Plan. Nothing in sub-subdivision b.
16 or c. of this subdivision shall be interpreted to modify the scope of
17 practice of any service provider, practitioner, or licensee, nor to
18 modify or attenuate any collaboration or supervision requirement
19 related to the professional activities of any service provider,
20 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this
21 subdivision shall be interpreted to require any private health insurer
22 or health plan to make direct third-party reimbursements or payments
23 to any service provider, practitioner, or licensee.

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

32 **SECTION 10.15.(e) Provider Performance Bonds and Visits. –**

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

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

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

- 1 (1a) The Department may waive or limit the requirements of this paragraph for
2 individual Medicaid-enrolled providers or for one or more classes of
3 Medicaid-enrolled providers based on the following:
4 a. The provider's or provider class's dollar amount of monthly billings
5 to Medicaid.
6 b. The length of time an individual provider has been licensed,
7 endorsed, certified, or accredited in this State to provide services.
8 c. The length of time an individual provider has been enrolled to
9 provide Medicaid services in this State.
10 d. The provider's demonstrated ability to ensure adequate record
11 keeping, staffing, and services.
12 e. The need to ensure adequate access to care.

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

- 21 (2) Reimbursement is available for up to 30 visits per recipient per fiscal year
22 for the following professional services: hospital outpatient providers,
23 physicians, nurse practitioners, nurse midwives, clinics, health departments,
24 optometrists, chiropractors, and podiatrists. The Department of Health and
25 Human Services shall adopt medical policies in accordance with
26 G.S. 108A-54.2 to distribute the allowable number of visits for each service
27 or each group of services consistent with federal law. In addition, the
28 Department shall establish a threshold of some number of visits for these
29 services. The Department shall ensure that primary care providers or the
30 appropriate CCNC network are notified when a patient is nearing the
31 established threshold to facilitate care coordination and intervention as
32 needed.

33 Prenatal services, all EPSDT children, emergency room visits, and
34 mental health visits subject to independent utilization review are exempt
35 from the visit limitations contained in this subdivision. Subject to
36 appropriate medical review, the Department may authorize exceptions when
37 additional care is medically necessary. Routine or maintenance visits above
38 the established visit limit will not be covered unless necessary to actively
39 manage a life threatening disorder or as an alternative to more costly care
40 options.

41 **SECTION 10.15.(f)** Exceptions and Limitations on Services; Authorization of
42 Co-Payments and Other Services. –

- 43 (1) Exceptions to service limitations, eligibility requirements, and payments. –
44 Service limitations, eligibility requirements, and payment bases in this
45 section may be waived by the Department of Health and Human Services,
46 with the approval of the Director of the Budget, to allow the Department to
47 carry out pilot programs for prepaid health plans, contracting for services,
48 managed care plans, or community-based services programs in accordance
49 with plans approved by the United States Department of Health and Human
50 Services or when the Department determines that such a waiver will result in
51 a reduction in the total Medicaid costs for the recipient.

- 1 (2) Co-payment for Medicaid services. – The Department of Health and Human
2 Services may establish co-payments up to the maximum permitted by federal
3 law and regulation.

4 **SECTION 10.15.(g) Rules, Reports, and Other Matters. –**

- 5 (1) Rules. – The Department of Health and Human Services may adopt
6 temporary or emergency rules according to the procedures established in
7 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are
8 necessary to maximize receipt of federal funds within existing State
9 appropriations, to reduce Medicaid expenditures, and to reduce fraud and
10 abuse. The Department of Health and Human Services shall adopt rules
11 requiring providers to attend training as a condition of enrollment and may
12 adopt temporary or emergency rules to implement the training requirement.

13 Prior to the filing of the temporary or emergency rules authorized under
14 this subsection with the Rules Review Commission and the Office of
15 Administrative Hearings, the Department shall consult with the Office of
16 State Budget and Management on the possible fiscal impact of the temporary
17 or emergency rule and its effect on State appropriations and local
18 governments.

- 19 (2) Changes to Medicaid program; reports. – The Department shall report on
20 any change it anticipates making in the Medicaid program that impacts the
21 type or level of service, reimbursement methods, or waivers, any of which
22 require a change in the State Plan or other approval by the Centers for
23 Medicare and Medicaid Services (CMS). The reports shall be provided at the
24 same time they are submitted to CMS for approval. In addition to the entities
25 listed in subdivision (a)(4) of this section, the report shall be submitted to the
26 Joint Legislative Health Care Oversight Committee.

27
28 **DMA CONTRACT SHORTFALL**

29 **SECTION 10.16.(a)** Budget approval is required by the Office of State Budget and
30 Management prior to the Department of Health and Human Services, Division of Medical
31 Assistance, entering into any new contract or the renewal or amendment of existing contracts
32 that exceed the current contract amounts.

33 **SECTION 10.16.(b)** The Division of Medical Assistance shall make every effort to
34 effect savings within its operational budget and use those savings to offset its contract shortfall.
35 Notwithstanding G.S. 143C-6-4(b)(3), the department may use funds appropriated in this act to
36 the department to cover the contract shortfall in the Division of Medical Assistance if
37 insufficient funds exist within the division.

38
39 **MEDICAID COST-CONTAINMENT ACTIVITIES**

40 **SECTION 10.17.** The Department of Health and Human Services may use up to
41 five million dollars (\$5,000,000) in the 2009-2010 fiscal year and up to five million dollars
42 (\$5,000,000) in the 2010-2011 fiscal year in Medicaid funds budgeted for program services to
43 support the cost of administrative activities when cost-effectiveness and savings are
44 demonstrated. The funds shall be used to support activities that will contain the cost of the
45 Medicaid Program, including contracting for services, hiring additional staff, or providing
46 grants through the Office of Rural Health and Community Care to plan, develop, and
47 implement cost-containment programs.

48 Medicaid cost-containment activities may include prospective reimbursement
49 methods, incentive-based reimbursement methods, service limits, prior authorization of
50 services, periodic medical necessity reviews, revised medical necessity criteria, service
51 provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for

1 issuance to Medicaid enrollees, fraud detection software or other fraud detection activities,
2 technology that improves clinical decision making, credit balance recovery and data mining
3 services, and other cost-containment activities. Funds may be expended under this section only
4 after the Office of State Budget and Management has approved a proposal for the expenditure
5 submitted by the Department. Proposals for expenditure of funds under this section shall
6 include the cost of implementing the cost-containment activity and documentation of the
7 amount of savings expected to be realized from the cost-containment activity. The Department
8 shall provide a copy of proposals for expenditures under this section to the House of
9 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
10 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

11 12 **MEDICAID SPECIAL FUND TRANSFER**

13 **SECTION 10.18.** Of the funds transferred to the Department of Health and Human
14 Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the
15 Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three
16 million dollars (\$43,000,000) for the 2009-2010 fiscal year and the sum of forty-three million
17 dollars (\$43,000,000) for the 2010-2011 fiscal year. These funds shall be allocated as
18 prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in
19 G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall
20 replace the reduction in general revenue funding effected in this act. The Department may also
21 use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share
22 Hospital payment audit issues between the Department of Health and Human Services and the
23 federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund
24 for the 2009-2010 fiscal year for this purpose.

25 26 **EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS** 27 **REIMBURSEMENT SYSTEM**

28 **SECTION 10.19.** Full implementation for the Community Alternatives Programs
29 reimbursement system shall be not later than 12 months after the date on which the replacement
30 Medicaid Management Information System becomes operational and stabilized.

31 32 **FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD** 33 **PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY** 34 **INCOME**

35 **SECTION 10.20.(a)** Subject to approval from the Centers for Medicare and
36 Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical
37 Assistance, shall, in consultation with the Division of Mental Health, Developmental
38 Disabilities, and Substance Abuse Services, and Community Alternatives Program (CAP)
39 stakeholders, develop a schedule of cost-sharing requirements for families of children with
40 incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid
41 expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation
42 and Developmentally Disabled) Program and the CAP-C (Community Alternatives Program for
43 Children). The cost-sharing amounts shall be based on a sliding scale of family income and
44 shall take into account the impact on families with more than one child in the CAP programs.
45 In developing the schedule, the Department shall also take into consideration how other states
46 have implemented cost-sharing in their CAP programs. The Division of Medical Assistance
47 may establish monthly deductibles as a means of implementing this cost-sharing. The
48 Department shall provide for at least one public hearing and other opportunities for individuals
49 to comment on the imposition of cost-sharing under the CAP program schedule.

50 **SECTION 10.20.(b)** The Division of Medical Assistance shall also, in
51 collaboration with the Controller's Office of the Department of Health and Human Services, the

1 Division of Information Resource Management (DIRM), and the new vendor of the
2 replacement Medicaid Management Information System, develop business rules, program
3 policies and procedures, and define relevant technical requirements.

4 **SECTION 10.20.(c)** Prior to seeking approval from CMS, but not later than
5 October 1, 2009, the Department shall report to the Joint Legislative Oversight Committee on
6 Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding
7 Needs, and to the Senate Appropriations Committee on Health and Human Services, the House
8 of Representatives Appropriations Subcommittee on Health and Human Services, and the
9 Fiscal Research Division. The report shall include a summary of comments the Department
10 has received at the public hearing, business rules, policies and procedures, and technical
11 requirements of the initiative and shall also indicate any barriers to implementing the
12 cost-sharing.

13
14 **CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE**
15 **QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID**
16 **RECIPIENTS**

17 **SECTION 10.21.** The Department of Health and Human Services shall continue its
18 efforts to expand the scope of Community Care of North Carolina care management model to
19 recipients of Medicaid and dually eligible individuals with a chronic condition and long-term
20 care needs. In expanding the scope, the Department shall focus on the aged, blind, and
21 disabled, and CAP-DA populations for improvement in management, cost-effectiveness, and
22 local coordination of services through Community Care of North Carolina and in collaboration
23 with local providers of care. The Department shall target personal care services, private duty
24 nursing, home health, durable medical equipment, ancillary professional services, specialty
25 care, residential services, including skilled nursing facilities, home infusion therapy, pharmacy,
26 and other services determined target-worthy by the Department.

27
28 **MEDICAID PROVIDER AND RECIPIENT APPEALS**

29 **SECTION 10.22.(a)** For the purpose of expediting the resolution of community
30 support provider appeals and thereby saving State and federal funds that are paid for services
31 that are found to be unnecessary or otherwise ineligible for payment, the Department shall
32 implement on a temporary basis a community support provider appeals process. The process
33 shall be a substitute for informal provider appeals at the Department level and formal provider
34 appeals by the Office of Administrative Hearings. The community support provider appeals
35 process shall apply to a community support services provider:

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

42 **SECTION 10.22.(b)** The community support provider appeals process shall be
43 developed and implemented as follows:

- 44 (1) A hearing under this section shall be commenced by filing a petition with the
45 chief hearings clerk of the Department within 30 days of the mailing of the
46 notice by the Department of the action giving rise to the contested case. The
47 petition shall identify the petitioner, be signed by the party or representative
48 of the party, and shall describe the agency action giving rise to the contested
49 case. As used in this section, "file or filing" means to place the paper or item
50 to be filed into the care and custody of the chief hearings clerk of the
51 Department and acceptance thereof by the chief hearings clerk, except that

1 the hearing officer may permit the papers to be filed with the hearing officer,
2 in which event the hearing officer shall note thereon the filing date. The
3 Department shall supply forms for use in these contested cases.

4 (2) If there is a timely request for an appeal, the Department shall promptly
5 designate a hearing officer who shall hold an evidentiary hearing. The
6 hearing officer shall conduct the hearing according to applicable federal law
7 and regulations and shall ensure that:

8 a. Notice of the hearing is given not less than 15 days before the
9 hearing. The notice shall state the date, hour, and place of the hearing
10 and shall be deemed to have been given on the date that a copy of the
11 notice is mailed, via certified mail, to the address provided by the
12 petitioner in the petition for hearing.

13 b. The hearing is held in Wake County, except that the hearing officer
14 may, after consideration of the numbers, locations, and convenience
15 of witnesses and in order to promote the ends of justice, hold the
16 hearing by telephone or other electronic means or hold the hearing in
17 a county in which the petitioner resides.

18 c. Discovery is no more extensive or formal than that required by
19 federal law and regulations applicable to the hearings. Prior to and
20 during the hearing, a provider representative shall have adequate
21 opportunity to examine the provider's own case file. No later than
22 five days before the date of the hearing, each party to a contested
23 case shall provide to each other party a copy of any documentary
24 evidence that the party intends to introduce at the hearing and shall
25 identify each witness that the party intends to call.

26 (3) The hearing officer shall have the power to administer oaths and
27 affirmations, subpoena the attendance of witnesses, rule on prehearing
28 motions, and regulate the conduct of the hearing. The following shall apply
29 to hearings held pursuant to this section:

30 a. At the hearing, the parties may present such sworn evidence, law,
31 and regulations as are relevant to the issues in the case.

32 b. The petitioner and the respondent agency each have a right to be
33 represented by a person of his choice, including an attorney obtained
34 at the party's own expense.

35 c. The petitioner and the respondent agency shall each have the right to
36 cross-examine witnesses as well as make a closing argument
37 summarizing his view of the case and the law.

38 d. The appeal hearing shall be recorded. If a petition for judicial review
39 is filed pursuant to subsection (f) of this section, a transcript will be
40 prepared and made part of the official report and shall be prepared at
41 no cost to the appellant. In the absence of the filing of a petition for a
42 judicial review, no transcript will be prepared unless requested by a
43 party, in which case each party shall bear the cost of the transcript or
44 part thereof or copy of the transcript or part thereof requested by the
45 party. The recording of the appeal hearing may be erased or
46 otherwise destroyed 180 days after the final decision is mailed as
47 provided in G.S. 108A-79(i)(5).

48 (4) The hearing officer shall decide the case based upon a preponderance of the
49 evidence, giving deference to the demonstrated knowledge and expertise of
50 the agency as provided in G.S. 150B-34(a). The hearing officer shall prepare
51 a proposal for the decision, citing relevant law, regulations, and evidence,

- 1 which shall be served upon the petitioner or the petitioner's representative by
2 certified mail, with a copy furnished to the respondent agency.
- 3 (5) The petitioner and the respondent agency shall have 15 days from the date of
4 the mailing of the proposal for decision to present written arguments in
5 opposition to or in support of the proposal for decision to the designated
6 official of the Department who will make the final decision. If neither
7 written arguments are presented, nor extension of time granted by the final
8 agency decision maker for good cause, within 15 days of the date of the
9 mailing of the proposal for decision, the proposal for decision becomes final.
10 If written arguments are presented, such arguments shall be considered and
11 the final decision shall be rendered. The final decision shall be rendered not
12 more than 90 days from the date of the filing of the petition. This time limit
13 may be extended by agreement of the parties or by final agency decision
14 maker, for good cause shown, for an additional period of up to 30 days. The
15 final decision shall be served upon the petitioner or the petitioner's
16 representative by certified mail, with a copy furnished to the respondent
17 agency. In the absence of a petition for judicial review filed pursuant to
18 subsection (f) of this section, the final decision shall be binding upon the
19 petitioner and the Department.
- 20 (6) A petitioner who is dissatisfied with the final decision of the Department
21 may file, within 30 days of the service of the decision, a petition for judicial
22 review in the Superior Court of Wake County or of the county from which
23 the case arose. The judicial review shall be conducted according to Article 4
24 of Chapter 150B of the General Statutes.
- 25 (7) In the event of a conflict between federal law or regulations and State law or
26 regulations, federal law or regulations shall control. This section applies to
27 all petitions that are filed by a Medicaid community support services
28 provider on or after July 1, 2008, and for all Medicaid community support
29 services provider petitions that have been filed at the Office of
30 Administrative Hearings previous to July 1, 2008, but for which a hearing on
31 the merits has not been commenced prior to that date. The requirement that
32 the agency decision must be rendered not more than 90 days from the date of
33 the filing of the petition for hearing shall not apply to (i) community support
34 services provider petitions that were filed at the Office of Administrative
35 Hearings or (ii) requests for a hearing under the Department's informal
36 settlement process prior to the effective date of this act. The Office of
37 Administrative Hearings shall transfer all cases affected by this section to
38 the Department of Health and Human Services within 30 days of the
39 effective date of this section. This act preempts the existing informal appeal
40 process and reconsideration review process at the Department of Health and
41 Human Services and the existing appeal process at the Office of
42 Administrative Hearings with regard to all appeals filed by Medicaid
43 community support services providers under the Medical Assistance
44 program.

45 **SECTION 10.22.(c)** Notwithstanding any other provision of law to the contrary,
46 the Department of Health and Human Services may, pursuant to its statutory authority or
47 federal Medicaid requirements, suspend the endorsement or Medicaid participation of a
48 provider of community support services pending a final agency decision based on a fair hearing
49 of the provider's appeal filed with the Department under its community support provider appeal
50 process. A provider of community support services whose endorsement, Medicaid
51 participation, or services have been suspended is not entitled to payment during the period the

1 appeal is pending, and the Department shall make no such payment to the provider during that
2 period. If the final agency decision is in favor of the provider, the Department shall remove the
3 suspension, commence payment for provider services, and reimburse the provider for payments
4 withheld during the period of appeal. Contracts between the Department or a local
5 management entity and the provider shall contain a provision indicating the circumstances
6 under which a provider may appeal an agency decision and giving notice of the suspension of
7 payments to the provider while the appeal is pending. This subsection applies to community
8 support provider appeals pending in the Department of Health and Human Services or the
9 Office of Administrative Hearings, as applicable, on and after July 1, 2008.

10 **SECTION 10.22.(d)** The Department's community support provider appeals
11 process established under this section shall expire July 1, 2010. The Department shall report to
12 the House of Representatives Appropriations Subcommittee on Health and Human Services,
13 the Senate Appropriations Committee on Health and Human Services, the Joint Legislative
14 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse
15 Services, and the Fiscal Research Division on October 1, 2009, and March 1, 2010, on the
16 effectiveness and efficiency of the community support provider appeals process.

17 **SECTION 10.22.(e)**

18 (1) General rule. – Notwithstanding any provision of State law or rules to the
19 contrary, this subsection shall govern the process used by a Medicaid
20 applicant or recipient to appeal a determination made by the Department of
21 Health and Human Services to deny, terminate, suspend, or reduce Medicaid
22 covered services. For purposes of this subsection, the phrase "adverse
23 determination" means a determination by the Department to deny, terminate,
24 suspend, or reduce Medicaid covered services. For purposes of this
25 subsection, all references to an applicant or recipient include the applicant or
26 recipient's parent, guardian, or legal representative; however, notice need
27 only be given to a parent, guardian, or legal representative who has
28 requested in writing to receive the notice.

29 (2) Notice. – Except as otherwise provided by federal law or regulation, at least
30 30 days before the effective date of an adverse determination, the
31 Department shall notify the applicant or recipient, and the provider, if
32 applicable, in writing of the determination and of the applicant's or
33 recipient's right to appeal the determination. The notice shall be mailed on
34 the date indicated on the notice as the date of the determination. The notice
35 shall include:

- 36 a. An identification of the applicant or recipient whose services are
37 being affected by the adverse determination, including full name and
38 Medicaid identification number.
- 39 b. An explanation of what service is being denied, terminated,
40 suspended, or reduced and the reason for the determination.
- 41 c. The specific regulation, statute, or medical policy that supports or
42 requires the adverse determination.
- 43 d. The effective date of the adverse determination.
- 44 e. An explanation of the applicant's or recipient's right to appeal the
45 Department's adverse determination in an evidentiary hearing before
46 an administrative law judge.
- 47 f. An explanation of how the applicant or recipient can request a
48 hearing and a statement that the applicant or recipient may represent
49 himself or use legal counsel, a relative, or other spokesperson.
- 50 g. A statement that the applicant or recipient will continue to receive
51 Medicaid services at the level provided on the day immediately

- 1 preceding the Department's adverse determination or the amount
2 requested by the applicant or recipient, whichever is less, if the
3 applicant or recipient requests a hearing before the effective date of
4 the adverse determination. The services shall continue until the
5 hearing is completed and a final decision is rendered.
- 6 h. The name and telephone number of a contact person at the
7 Department to respond in a timely fashion to the applicant's or
8 recipient's questions.
- 9 i. The telephone number by which the applicant or recipient may
10 contact a Legal Aid/Legal Services office.
- 11 j. The appeal request form described in subdivision (4) of this
12 subsection that the applicant or recipient may use to request a
13 hearing.
- 14 (3) Appeals. – Except as provided by this subdivision and subdivisions of
15 subsection (f) of this section, a request for a hearing to appeal an adverse
16 determination of the Department under this section is a contested case
17 subject to the provisions of Article 3 of Chapter 150B of the General
18 Statutes. The applicant or recipient must request a hearing within 30 days of
19 the mailing of the notice required by subdivision (2) of this subsection by
20 sending an appeal request form to the Office of Administrative Hearings and
21 the Department. The Department shall immediately forward a copy of the
22 notice to the Office of Administrative Hearings electronically. The
23 information contained in the notice is confidential unless the recipient
24 appeals. The Office of Administrative Hearings may dispose of the records
25 after one year. The Department may not influence, limit, or interfere with the
26 applicant's or recipient's decision to request a hearing.
- 27 (4) Appeal request form. – Along with the notice required by subdivision (2) of
28 this subsection, the Department shall also provide the applicant or recipient
29 with an appeal request form which shall be no more than one side of one
30 page. The form shall include the following:
- 31 a. A statement that in order to request an appeal, the applicant or
32 recipient must send the form by mail or fax to the address or fax
33 number listed on the form within 30 days of mailing of the notice.
- 34 b. The applicant's or recipient's name, address, telephone number, and
35 Medicaid identification number.
- 36 c. A preprinted statement that indicates that the applicant or recipient
37 would like to appeal the specific adverse determination of which the
38 applicant or recipient was notified in the notice.
- 39 d. A statement informing the applicant or recipient that he or she may
40 choose to be represented by a lawyer, a relative, a friend, or other
41 spokesperson.
- 42 e. A space for the applicant's or recipient's signature and date.
- 43 (5) Final decision. – After a hearing before an administrative law judge, the
44 judge shall return the decision and record to the Department in accordance
45 with subsection (f) of this section. The Department shall make a final
46 decision in the case within 20 days of receipt of the decision and record from
47 the administrative law judge and promptly notify the applicant or recipient
48 of the final decision and of the right to judicial review of the decision
49 pursuant to Article 4 of Chapter 150B of the General Statutes.

SECTION 10.22.(f)

- 1 (1) Application. – This subsection applies only to contested Medicaid cases
2 commenced by Medicaid applicants or recipients under subsection (f) of this
3 section. Except as otherwise provided by subsection (f) of this section
4 governing time lines and procedural steps, a contested Medicaid case
5 commenced by a Medicaid applicant or recipient is subject to the provisions
6 of Article 3 of Chapter 150B of the General Statutes. To the extent any
7 provision in this subsection conflicts with another provision in Article 3 of
8 Chapter 150B of the General Statutes, this subsection and subsection (e) of
9 this section control.
- 10 (2) Simple Procedures. – Notwithstanding any other provision of Article 3 of
11 Chapter 150B of the General Statutes, the chief administrative law judge
12 may limit and simplify the procedures that apply to a contested Medicaid
13 case involving a Medicaid applicant or recipient in order to complete the
14 case as quickly as possible. To the extent possible, the Hearings Division
15 shall schedule and hear contested Medicaid cases within 45 days of
16 submission of a request for appeal. The simplified procedure may include
17 requiring that all prehearing motions be considered and ruled on by the
18 administrative law judge in the course of the hearing of the case on the
19 merits. An administrative law judge assigned to a contested Medicaid case
20 shall make reasonable efforts in a case involving a Medicaid applicant or
21 recipient who is not represented by an attorney to assure a fair hearing and
22 to maintain a complete record of the hearing. The administrative law judge may
23 allow brief extensions of the time limits contained in this section for good
24 cause and to ensure that the record is complete. Good cause includes delays
25 resulting from untimely receipt of documentation needed to render a
26 decision and other unavoidable and unforeseen circumstances.
- 27 (3) Mediation. – Upon receipt of an appeal request form as provided by
28 subdivision (e)(4) of this section or other clear request for a hearing by a
29 Medicaid applicant or recipient, the chief administrative law judge shall
30 immediately notify the Mediation Network of North Carolina which shall
31 within five days contact the petitioner to offer mediation in an attempt to
32 resolve the dispute. If mediation is accepted, the mediation must be
33 completed within 25 days of submission of the request for appeal. If
34 mediation is successful, the mediator shall inform the Hearings Division,
35 which shall confirm with the agency that a settlement has been achieved, and
36 the case shall be dismissed. If the petitioner rejects the offer of mediation or
37 the mediation is unsuccessful, the mediator shall notify the Hearings
38 Division that the case will proceed to hearing. Nothing in this subdivision
39 shall restrict the right to a contested case hearing.
- 40 (4) Burden of proof. – The petitioner has the burden of proof to show
41 entitlement to a requested benefit or the propriety of requested agency action
42 when the agency has denied the benefit or refused to take the particular
43 action. The agency has the burden of proof when the appeal is from an
44 agency determination to impose a penalty or reduce, terminate, or suspend a
45 benefit previously granted. The party with the burden of proof on any issue
46 has the burden of going forward, and the administrative law judge shall not
47 make any ruling on the preponderance of evidence until the close of all
48 evidence.
- 49 (5) Decision. – The administrative law judge assigned to a contested Medicaid
50 case shall hear and decide the case without unnecessary delay. The Hearings
51 Division shall send a copy of the audiotape or diskette of the hearing to the

1 agency within five days of completion of the hearing. The judge shall
2 prepare a written decision and send it to the parties. The decision must be
3 sent together with the record to the agency within 20 days of the conclusion
4 of the hearing.

5 **SECTION 10.22.(g)** Nothing in this act shall prevent the Department of Health and
6 Human Services from engaging in an informal review of the case with the applicant or recipient
7 prior to issuing a notice of adverse determination as provided by subsection (e) of this section.

8 **SECTION 10.22.(h)** The appeals process for Medicaid applicants and recipients
9 established under this section shall expire July 1, 2010. The Department of Health and Human
10 Services and the Office of Administrative Hearings shall each report to the House of
11 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
12 Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight
13 Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and
14 the Fiscal Research Division on October 1, 2009, and March 1, 2010, on the costs,
15 effectiveness, and efficiency of the appeals process for Medicaid applicants and recipients and
16 make recommendations regarding the continuation of the process.

17 **SECTION 10.22.(i)** The Department of Health and Human Services, Division of
18 Medical Assistance, shall adopt a policy reducing the maximum allowable hours for
19 community support services to eight hours per week. This subsection does not apply to
20 community support services offered under a Medicaid managed care, capitated at-risk waiver.

21 **CLARIFYING CHANGES TO STATE MEDICAID RESPONSIBILITIES**

22 **SECTION 10.23.** Consistent with Sections 31.16.1(c) and (d) of S.L. 2007-323
23 that requires the State to assume responsibility for the nonfederal share of the costs of medical
24 services provided under the Medicaid Program starting June 1, 2009, the counties shall neither
25 bear any responsibility for settlement payments to providers or refunds of expenditure for
26 program service claims paid on or before June 1, 2009. Counties will continue to participate in
27 their share of administrative costs.
28

29 **DMA REDUCTION OPTION FLEXIBILITY**

30 **SECTION 10.24.(a)** The Department of Health and Human Services, Division of
31 Medical Assistance, shall, in consultation with provider groups and other interested parties,
32 review ways to improve health care quality, ensure appropriate use of services, improve clinical
33 outcomes, and reduce the cost of care for beneficiaries with medically complex conditions as
34 well as to strengthen fraud and abuse oversight efforts. In the review the Division shall explore
35 all viable options to improve the quality of care and to control health care costs, including, but
36 not limited to, the following options:
37

- 38 (1) Increasing utilization review and management practices to improve value
39 and quality internally or with private vendors with proven records in other
40 states' Medicaid programs;
- 41 (2) Expanding and enhancing programs that increase Aged, Blind, and Disabled
42 (ABD) Medicaid eligibles participation within CCNC's medical home efforts
43 and/or encourage single physician care management;
- 44 (3) Developing and enhancing incentives for increased provider participation in
45 CCNC;
- 46 (4) Requiring inpatient and outpatient care management for select Medicaid
47 enrollees;
- 48 (5) Adopting specific network and physician performance and compliance
49 standards within the Community Care of NC (CCNC) that are tied to any
50 enhanced reimbursement structure;

- 1 (6) Initiative to address State nursing home payment methods and to offer
2 incentives in payment methods to achieve certain quality and cost goals;
- 3 (7) Initiative to control drug cost and utilization as well as to maximize
4 collection of supplemental rebates;
- 5 (8) Increasing third-party recovery and/or cost avoidance efforts, including
6 enhancing Medicaid fraud and abuse oversight initiatives;
- 7 (9) Reducing or eliminating the occurrence of hospital "never events" –
8 nonreimbursement for serious and costly errors in the provision of health
9 care services that should never happen.

10 **SECTION 10.24.(b)** In order to consider all proposals prior to preparing
11 adjustments to the fiscal year 2010-2011 budget, the Division shall report its recommendations
12 on methods to better manage and save Medicaid costs to the Governor's Office by January 15
13 of 2010. All proposals shall include the steps necessary for implementation, including time
14 frames, and the amount of projected savings over a five-year period.

15 **CO-PAYMENTS FOR TICKET TO WORK**

16 **SECTION 10.25.** G.S. 108A-54.1 reads as rewritten:

17 **"§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

18 (a) Title. – This act may be cited as the Health Coverage for Workers with Disabilities
19 Act. The Department shall implement a Medicaid buy-in eligibility category as permitted under
20 P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999. The Department
21 shall establish rules, policies, and procedures to implement this act in accordance with this
22 section.
23

24 (b) Definitions. – As used in this section, unless the context clearly requires otherwise:

- 25 (1) "FPG" means the federal poverty guidelines.
- 26 (2) "HCWD" means Health Coverage for Workers With Disabilities.
- 27 (3) "SSI" means Supplemental Security Income.
- 28 (4) "Ticket to Work" means the Ticket to Work and Work Incentives
29 Improvement Act of 1999.

30 (c) Eligibility. – An individual is eligible for HCWD if:

- 31 (1) The individual is at least 16 years of age and is less than 65 years of age;
- 32 (2) The individual meets Social Security Disability criteria, or the individual has
33 been enrolled in HCWD and then becomes medically improved as defined in
34 Ticket to Work and as further specified by the Department. An individual
35 shall be determined to be eligible under this section without regard to the
36 individual's ability to engage in, or actual engagement in, substantial gainful
37 activity as defined in section 223 of the Social Security Act (42 U.S.C. §
38 423(d)(4)). In conducting annual redetermination of eligibility, the
39 Department may not determine that an individual participating in HCWD is
40 no longer disabled based solely on the individual's participation in
41 employment or earned income;
- 42 (3) The individual's unearned income does not exceed one hundred fifty percent
43 (150%) of FPG, and countable resources for the individual do not exceed the
44 resource limit for the minimum community spouse resource standard under
45 42 U.S.C. § 1396r, and as further determined by the Department. In
46 determining an individual's countable income and resources, the Department
47 may not consider income or resources that are disregarded under the State
48 Medical Assistance Plan's financial methodology, including the
49 sixty-five-dollar (\$65.00) disregard, impairment-related work expenses,
50 student earned-income exclusions, and other SSI program work incentive
51 income disregards; and

1 (4) The individual is engaged in a substantial and reasonable work effort
2 (employed) as provided in this subdivision and as further defined by the
3 Department and allowable under federal law. For purposes of this
4 subsection, "engaged in substantial and reasonable work effort" means all of
5 the following:

- 6 a. Working in a competitive, inclusive work setting, or self-employed.
7 b. Earning at least the applicable minimum wage.
8 c. Having monthly earnings above the SSI basic sixty-five-dollar
9 (\$65.00) earned-income disregard.
10 d. Being able to provide evidence of paying applicable Medicare, Social
11 Security, and State and federal income taxes.

12 The Department may impose additional earnings requirements in
13 defining "engaged in substantial and reasonable work effort" for individuals
14 who are eligible for HCWD based on medical improvement.

15 Individuals who participate in HCWD but thereafter become
16 unemployed for involuntary reasons, including health reasons, shall have
17 continued eligibility in HCWD for up to 12 months from the time of
18 involuntary unemployment, so long as the individual (i) maintains a
19 connection with the workforce, as determined by the Department, (ii) meets
20 all other eligibility criteria for HCWD during the period, and (iii) pays
21 applicable fees, premiums, and co-payments.

22 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD and
23 have countable income greater than one hundred fifty percent (150%) of FPG shall pay an
24 annual enrollment fee of fifty dollars (\$50.00) to their county department of social services.
25 Individuals who participate in HCWD and have countable income greater than or equal to two
26 hundred percent (200%) of FPG shall pay a monthly premium in addition to the annual fee. The
27 Department shall set a sliding scale for premiums, which is consistent with applicable federal
28 law. An individual with countable income equal to or greater than four hundred fifty percent
29 (450%) of FPG shall pay not less than one hundred percent (100%) of the cost of the premium,
30 as determined by the Department. The premium shall be based on the experience of all
31 individuals participating in the Medical Assistance Program. Individuals who participate in
32 HCWD are subject to co-payments equal to those required under the ~~North Carolina Health~~
33 ~~Choice Program. Medical Assistance Program.~~"

34 35 ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

36 **SECTION 10.26.(a)** Receivables reserved at the end of the 2009-2010 and
37 2010-2011 fiscal years shall, when received, be accounted for as nontax revenue for each of
38 those fiscal years.

39 **SECTION 10.26.(b)** For the 2009-2010 fiscal year, the Department of Health and
40 Human Services shall deposit from its revenues one hundred twenty-four million nine hundred
41 ninety four thousand nine hundred fifty four dollars (\$124,994,954) with the Department of
42 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the
43 Department of Health and Human Services shall deposit from its revenues one hundred million
44 dollars (\$100,000,000) with the Department of State Treasurer to be accounted for as nontax
45 revenue. Any revenue collected in each of the fiscal years in excess of one of the amounts
46 listed above shall be reserved by the State Treasurer in the Department's account for future
47 appropriations by the General Assembly. These deposits shall represent the return of General
48 Fund appropriations provided to the Department of Health and Human Services to provide
49 indigent care services at State-owned and operated mental hospitals. The treatment of any
50 revenue derived from federal programs shall be in accordance with the requirements specified
51 in the Code of Federal Regulations, Volume 2, Part 225.

PREFERRED DRUG LIST PROGRAM

SECTION 10.27.(a) In the event insufficient savings are realized from enhancing the utilization management of the Prescription Advantage List, increasing the utilization of generic drugs in place of brand-name drugs and increasing rebate collections on generic drugs, the Department of Health and Human Services shall establish and implement a preferred drug list program under the Division of Medical Assistance. The Department shall submit a medical assistance State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services to implement the program.

SECTION 10.27.(b) The pharmaceutical and therapeutics committee of the Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list. Members of the committee shall submit conflict of interest disclosure statements to the Department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

SECTION 10.27.(c) The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including:

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

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

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

The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; or (iii) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program in order to achieve the lowest available price for such drugs under such program.

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

SECTION 10.27.(d) This section becomes effective if the Department cannot demonstrate by June 1, 2010, that twenty million seven hundred ninety-one thousand two hundred sixty-four dollars (\$20,791,264) in prescription drug savings have been realized by employing the methods outlined in subsection (a) of this section.

MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS

SECTION 10.28. The sum of eleven million seventy-one thousand five hundred two dollars (\$11,071,502) for fiscal year 2009-2010 and nine million eight hundred twenty thousand six hundred eighty-nine dollars (\$9,820,689) for fiscal year 2010-2011 is appropriated from prior year earned revenues received by the Department of Health and Human Services for the Medicaid Management Information System (MMIS) replacement project. These funds shall be deposited to the Department's information technology budget code and will be used to match federal funds for the procurement, design, development, and implementation of the new

1 MMIS system and to fund the central management of the project. In the event that prior year
2 earned revenue is not received in these amounts, the Department is authorized with approval of
3 the Office of State Budget and Management to use other over-realized receipts to the level
4 appropriated in this section for MMIS expenditures.

6 MEDICAID FALSE CLAIMS

7 **SECTION 10.29.(a)** G.S. 108A-70.11(5) reads as rewritten:

8 "(5) "Medical Assistance Program" means the Medical Assistance Program
9 established pursuant to G.S. 108A-54 and includes the North Carolina
10 Division of Medical Assistance and or its fiscal agent."

11 **SECTION 10.29.(b)** G.S. 108A-70.12(a) reads as rewritten:

12 **"§ 108A-70.12. Liability for certain acts; damages; effect of repayment.**

13 (a) Liability for Certain Acts. – It shall be unlawful for any provider of medical
14 assistance under the Medical Assistance Program ~~to~~to do any of the following:

- 15 (1) Knowingly present, or cause to be presented to the Medical Assistance
16 Program a false or fraudulent claim for payment or ~~approval; or approval.~~
- 17 (2) Knowingly make, use, or cause to be made or used a false record or
18 statement to get a false or fraudulent claim paid or approved by the Medical
19 Assistance ~~Program-Program.~~
- 20 (3) Conspire to defraud the Medical Assistance Program by obtaining a false or
21 fraudulent claim allowed or paid.
- 22 (4) Knowingly make, use, or cause to be made or used, a false record or
23 statement to conceal, avoid, or decrease an obligation to pay or transmit
24 money or property to the Medical Assistance Program. Each claim presented
25 or caused to be presented in violation of this section is a separate violation."

26 **SECTION 10.29.(c)** G.S. 108A-70.12(b)(1) reads as rewritten:

27 "(b) Damages. –

- 28 (1) Except as provided in subdivision (2) of this subsection, a court shall assess
29 against any provider of medical assistance under the Medical Assistance
30 Program who violates this section a civil penalty of not less than five
31 thousand five hundred dollars (~~\$5,000~~)(\$5,500) and not more than ~~ten~~
32 ~~thousand~~ dollars (~~\$10,000~~)(eleven thousand dollars (\$11,000) plus three
33 times the amount of damages which the ~~Medicaid~~ Medical Assistance
34 Program sustained because of the act of the provider."

35 **SECTION 10.29.(d)** Article 2 of Chapter 108A of the General Statutes is amended
36 by adding the following new Part to read:

37 "Part 7A. Civil Action by Private Persons for Provider False Claims.

38 **"§ 108A-70.17. Civil action filed by private persons.**

39 (a) A person may initiate a civil action for a violation of G.S. 108A-70.12 on behalf of
40 the person and the State. The action shall be brought in the name of the State. The action may
41 be dismissed prior to service of the complaint upon the defendant under subsection (c) of this
42 section only if the court and the Attorney General have given written consent to the dismissal
43 and their reasons for consenting.

44 (b) A copy of the complaint and written disclosure of substantially all material evidence
45 and information the person possesses shall be served on the State. The complaint shall be filed
46 in camera, shall remain under seal for at least 120 days, and shall not be served on the
47 defendant until the court so orders. The State may elect to intervene and proceed with the
48 action within 120 days after it receives both the complaint and the material evidence and
49 information. The State may, for good cause shown, move the court for a partial lifting of the
50 seal to facilitate the investigative process or settlement.

1 (c) The State may, for good cause shown, move the court for extensions of the time
2 during which the complaint remains under seal. Any of these motions may be supported by
3 affidavits or other submission in camera. The time period to respond to any complaint filed
4 under this section shall commence 21 days after the complaint is unsealed and served upon the
5 defendant.

6 (d) Before the expiration of the 120-day period or any extensions obtained under
7 subsection (c) of this section, the State shall either proceed with the action, in which case the
8 action shall be conducted by the State, or notify the court that it declines to take over the action,
9 in which case the person initiating the action shall have the right to prosecute the action.

10 (e) When a person initiates an action under this section, no person other than the State
11 may intervene or bring a related action based on the facts underlying the pending action. If
12 another action is filed based on the facts underlying the pending action while the complaint is
13 sealed under subsections (b) and (c) of this section, the court may consolidate the actions or
14 dismiss the subsequent action.

15 **"§ 108A-70.17A. Rights of private plaintiff and State.**

16 (a) If the State proceeds with the action, it shall have the primary responsibility for
17 prosecuting the action and shall not be bound by any act of the person initiating the action. The
18 person bringing the action shall have the right to continue as a party to the action, subject to the
19 limitations of this section.

20 (b) The State may dismiss the action notwithstanding the objections of the person
21 initiating the action if the person has been notified by the State of the filing of the motion, and
22 the court has provided the person with an opportunity for a hearing on the motion.

23 (c) The State may settle the action with the defendant notwithstanding the objections of
24 the person initiating the action if the court determines, after a hearing, that the proposed
25 settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of
26 good cause, such hearing may be held in camera.

27 (d) If the State proceeds with the action, the court may, in its discretion, impose
28 limitations on the person's participation in the litigation as set forth in subsection (e) of this
29 section. Such limitations must be imposed after any of the following:

30 (1) A showing by the State that unrestricted participation during the course of
31 the litigation by the person initiating the action would interfere with or
32 unduly delay the State's prosecution of the case, or would be repetitious,
33 irrelevant, or for purposes of harassment.

34 (2) A showing by the defendant that unrestricted participation during the course
35 of the litigation by the person initiating the action would be for purposes of
36 harassment or would cause the defendant undue burden or unnecessary
37 expense.

38 (e) Limitations on participation of the person initiating the action shall include all of the
39 following:

40 (1) Limiting the number of witnesses the person may call.

41 (2) Limiting the length of the testimony of such witnesses.

42 (3) Limiting the person's cross-examination of witnesses.

43 (4) Other limits on the participation by the person initiating the action in the
44 litigation as the court deems appropriate.

45 (f) If the State elects not to proceed with the action, the person who initiated the action
46 shall have the right to conduct the action. If the State so requests, it shall be served with copies
47 of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts
48 at the State's expense. When a person initiating the action proceeds with the action, the court,
49 without limiting the status and rights of the person initiating the action, may nevertheless
50 permit the State to intervene at a later date upon a showing of good cause.

1 (g) Whether or not the State proceeds with the action, upon a showing by the State that
2 certain actions of discovery by the person initiating the action would interfere with the State's
3 investigation or prosecution of a criminal or civil matter arising out of the same facts, the court
4 may stay the discovery for a period of not more than 60 days. The showing by the State shall be
5 conducted in camera. The court may extend the 60-day period upon a further showing in
6 camera that the State has pursued the criminal or civil investigation or proceedings with
7 reasonable diligence and any proposed discovery in the civil action will interfere with the
8 ongoing criminal or civil investigation or prosecution of the criminal or civil matter.

9 (h) Notwithstanding G.S. 108A-70.17(b), the State may elect to pursue its claim
10 through any alternate remedy available to the State, including any administrative proceeding to
11 determine a civil money penalty. Any finding of fact or conclusion of law made in the alternate
12 proceeding that has become final shall be conclusive on all parties to an action under this Part.
13 For purposes of this subsection, a finding or conclusion is final if it has been finally determined
14 on appeal by a court of competent jurisdiction of the State, if the time for filing an appeal with
15 respect to the finding or conclusion has expired, or if the finding or conclusions are not subject
16 to judicial review.

17 **"§ 108A-70.17B. Award to qui tam plaintiff.**

18 (a) Except as otherwise provided in this section, if the State proceeds with an action
19 brought by a person under G.S. 108A-70.17, the person shall receive at least fifteen percent
20 (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement
21 of the claim, if any, depending upon the extent to which the person substantially contributed to
22 the prosecution of the action. The plaintiff's share in the proceeds of the action or settlement is
23 administrative costs of the action. A share of the proceeds of an action or settlement of the
24 claim shall not be awarded to the person initiating the action in State court under this Part if the
25 person has received or may receive a share of the proceeds or settlement of an action or claim
26 on the same facts brought in federal court. Where the action is one that the court finds to be
27 based primarily on disclosures of specific information, other than information proved by the
28 person initiating the action, relating to allegations or transactions in a criminal, civil, or
29 administrative hearing, in a legislative, administrative, or State Auditor's report, hearing, audit,
30 or investigation, or from the news media, the court may reduce the award under this subsection
31 to such sums as it considers appropriate, but in no case more than ten percent (10%) of the
32 proceeds of the action, taking into account the significance of the information and the role of
33 the person initiating the action in advancing the case to litigation.

34 (b) If the State does not proceed with an action, the person initiating the action or
35 settling the claim shall receive an amount that the court decides is reasonable for collecting the
36 civil penalty and damages, if awarded. The amount shall be not less than twenty-five percent
37 (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and
38 shall be paid out of the proceeds.

39 (c) Notwithstanding subsections (a) and (b) of this section, if the person initiating the
40 action is a person who primarily planned and initiated the violation of G.S. 108A-70.12 upon
41 which the action was brought, that person shall be dismissed as a qui tam plaintiff and shall not
42 receive any share of the proceeds of the action. If the person initiating the action is convicted of
43 criminal conduct arising from the person's role in the violation of G.S. 108A-70.12, that person
44 shall be dismissed from the civil action and shall not receive any share of the proceeds of the
45 action. The dismissal shall not prejudice the right of the State to continue the action.

46 (d) If the State does not proceed with the action and the person initiating the action
47 conducts the action, the court may award to the defendant its reasonable attorneys' fees and
48 expenses if the defendant prevails in the action and if the court finds that the claim of the
49 person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for
50 purposes of harassment.

51 **"§ 108A-70.17C. Certain actions barred.**

1 (a) No court shall have jurisdiction over an action brought under this Part based on
2 information discovered by a present or former employee of the State or a political subdivision
3 of the State during the course of the present or former employee's employment unless that
4 employee first, in good faith, exhausted existing internal procedures for reporting and seeking
5 recovery of the falsely claimed sums through official channels, and unless the State or political
6 subdivision failed to act on the information provided within a reasonable period of time.

7 (b) In no event may a person bring an action under this Part that is based upon
8 allegations or transactions that are the subject of a criminal action, civil action, or an
9 administrative proceeding in which the State is already a party.

10 (c) No court shall have jurisdiction over an action under this Part based upon the public
11 disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a
12 legislative, administrative, or State Auditor's report, hearing, audit, or investigation, or from the
13 news media, unless the action is brought by the Attorney General, or the person initiating the
14 action is an original source of the information. For purposes of this section, "original source"
15 means an individual who has direct and independent knowledge of the information on which
16 the allegations are based and has voluntarily provided the information to the State before filing
17 an action under this Part that is based on the information.

18 (d) The State is not liable for expenses a person incurs in bringing an action under this
19 Part.

20 (e) G.S. 108A-70.14 and G.S. 108A-70.15 apply to this Part.

21 **"§ 108A-70.17D. Procedure; statute of limitations.**

22 (a) A civil action under this Part may not be brought after the later of either of the
23 following:

24 (1) More than six years after the date on which the violation is committed.

25 (2) More than three years after the date when facts material to the right of the
26 action are known or reasonably should have been known by the official of
27 the State charged with responsibility to act in the circumstances.

28 (b) If the civil action is brought under subdivision (a)(2) of this section, it may not be
29 brought more than 10 years after the date on which the violation is committed."

30 **SECTION 10.29.(e)** G.S. 108A-70.15 reads as rewritten:

31 **"§ 108A-70.15. Employee remedies.**

32 (a) In the absence of fraud or malice, no person who furnishes information to officials
33 of the State responsible for investigating false claims violations shall be liable for damages in a
34 civil action for any oral or written statement made or any other action that is necessary to
35 supply information required pursuant to this Part. Part or Part 7A of this Article.

36 (b) Any employee of a provider who is discharged, demoted, suspended, threatened,
37 harassed, or in any other manner discriminated against in the terms and conditions of
38 employment by the employee's employer because of lawful acts done by the employee on
39 behalf of the employee or others in furtherance of an action under ~~G.S. 108A-70.12~~, G.S.
40 108A-70.12, or Part 7A of this Article, including investigation for, initiation of, testimony for,
41 or assistance in an action filed or to be filed under ~~G.S. 108A-70.12~~, G.S. 108A-70.12, or Part
42 7A of this Article, shall be entitled to all relief necessary to make the employee whole. Relief
43 shall include reinstatement with the same seniority status as the employee would have had but
44 for the discrimination, two times the amount of back pay, interest on the back pay, and
45 compensation for any special damages sustained as a result of the discrimination, including
46 litigation costs and reasonable attorneys' fees. An employee may bring an action in the
47 appropriate court for the relief provided in this section."

48 **SECTION 10.29.(f)** Provided that the Medicaid False Claims State legislation is
49 adopted, and the State legislation meets federal Center for Medicare and Medicaid Services
50 criteria to receive ten percent (10%) bonuses subject to the False Claims Act, the Department of
51 Health and Humans Services, Division of Medical Assistance, shall transfer three hundred

fifty-two thousand one hundred thirty-six dollars (\$352,136) in fiscal year 2010-2011, and each year thereafter, to fund five permanent staff positions at the Attorney General's Office necessary to implement the Medicaid False Claims Act.

FREEZE MEDICAID PROVIDER RATES

SECTION 10.30. The Department of Health and Human Services shall freeze rates for fiscal year 2009-2010 for most Medicaid providers at the level authorized in fiscal year 2008-2009. The rate freeze applies to all Medicaid private and public providers with the following exceptions: federally qualified health clinics, rural health centers, state institutions, outpatient hospital, pharmacy, and the noninflationary components of the case-mix reimbursement system for nursing facilities. Medicaid rates predicated upon Medicare fee schedules shall follow Medicare reductions but not Medicare increases unless federally required. Inflationary increases for Medicaid providers paying provider fees (private ICF-MRs and nursing facilities) can occur if the State share of the increases can be funded with provider fees.

NON-MEDICAID REIMBURSEMENT CHANGES

SECTION 10.31. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

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

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

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

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

DATA COLLECTION AND CASE MANAGEMENT SYSTEMS

SECTION 10.32. The sum of one million five hundred thousand dollars (\$1,500,000) is appropriated from Budget Code 67425, Fund Code 6725, and Fund Code 6726, to Budget Code 24410 for Information Technology Projects in the Department of Health and Human Services, Division of Central Management and Support, for the Data Collection and Case Management Systems initiative. This initiative will also be supported with federal funds

1 from the Rehabilitation Act. These funds shall be used for the development and implementation
2 of a data collection and case management information systems to replace the current system in
3 use by the Division of Services for the Blind, the Division of Services for the Deaf and Hard of
4 Hearing, and for the Division of Vocational Rehabilitation Services. Whenever possible, the
5 Department shall use federal funds first and State funds from Budget Code 67425 only as
6 necessary. In accordance with G.S. 143C-1-2(b), funds appropriated for this project shall not
7 revert to the fund from which they came until the project is complete.

8 9 VITAL RECORDS FEES

10 **SECTION 10.33.** G.S. 130A-93.1 reads as rewritten:

11 "§ 130A-93.1. Fees for vital records copies or search; automation fund.

12 (a) The State Registrar shall collect, process, and utilize fees for services as follows:

13 (1) A fee not to exceed ~~fifteen~~ twenty-four dollars (~~\$15.00~~) (\$24.00) shall be
14 charged for issuing any copy a first copy of a vital record or for conducting a
15 routine search of the files for the record when no copy is made. A fee of
16 fifteen dollars (\$15.00) shall be charged for each additional certificate copy
17 requested from the same search. When certificates are issued or searches
18 conducted for statewide issuance by local agencies using databases
19 maintained by the State Registrar, the local agency shall charge ~~this~~ these fee
20 fees and shall ~~forward five dollars (\$5.00) of this fee~~ retain ten dollars
21 (\$10.00) of these fees to cover local administrative costs and forward the
22 remaining fee to the State Registrar.

23 (2) A fee not to exceed fifteen (\$15.00) in-State and twenty dollars (\$20.00) out-
24 of-state shall be charged in addition to the fee charged under subdivision (a)
25 (1) of this subsection and ~~to~~ for all shipping and commercial charges when
26 expedited service is specifically requested.

27 (2a) The fee for a copy of a computer or microform database shall not exceed the
28 cost to the agency of making and providing the copy.

29 (3) Except as provided in subsection (b) of this section, fees collected under this
30 subsection shall be used by the Department for public health purposes.

31 (b) The Vital Records Automation Account is established as a nonreverting account
32 within the Department. Five dollars (\$5.00) of each fee collected pursuant to subdivision (a)(1)
33 shall be credited to this Account. The Department shall use the revenue in the Account to fully
34 automate and maintain the vital records system. When funds sufficient to fully automate and
35 maintain the system have accumulated in the Account, fees shall no longer be credited to the
36 Account but shall be used as specified in subdivision (a)(3) of this section."

37 38 CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES 39 INITIATIVE

40 **SECTION 10.34.(a)** Funds appropriated in this act from the General Fund to the
41 Department of Health and Human Services for the Community-Focused Eliminating Health
42 Disparities Initiative (CFEHDI) shall be used to provide grants-in-aid to local public health
43 departments, American Indian tribes, and faith-based and community-based organizations to
44 close the gap in the health status of African-Americans, Hispanics/Latinos, and American
45 Indians as compared to the health status of white persons. These grants shall focus on the use of
46 preventive measures to support healthy lifestyles. The areas of focus on health status shall be
47 infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and
48 homicides and motor vehicle deaths.

49 **SECTION 10.34.(b)** Funds appropriated in this act to the Department of Health
50 and Human Services, Division of Public Health, for the Health Disparities Initiative shall be
51 awarded as a grant-in-aid to honor the memory of the following recently deceased members of

1 the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne
2 Lucas, and William Martin. These funds shall be used for concerted efforts to address large
3 gaps in health status among North Carolinians who are African-American, as well as disparities
4 among other minority populations in North Carolina.

5 **SECTION 10.34.(c)** The Department of Health and Human Services shall report
6 on the following with respect to funds appropriated to the CFEHDI for the 2009-2010 and
7 2010-2011 fiscal years. The report shall address for each fiscal year:

- 8 (1) Which community programs and local health departments received CFEHDI
9 grants.
- 10 (2) What amount of funding did each program or local health department
11 receive.
- 12 (3) Which of the minority populations were served by the programs or local
13 health departments.
- 14 (4) Which counties were served by the programs or local health departments.
- 15 (5) What activities were planned and implemented by the programs or local
16 health departments to fulfill the community focus of the CFEHDI program.

17 The Department shall solicit from the grantees their observations and
18 recommendations on ways the CFEHDI program can best accomplish its goals. The report shall
19 also include specific activities undertaken pursuant to subsection (a) of this section to address
20 large gaps in health status among North Carolinians who are African-American and other
21 minority populations in this State. The Department shall submit the report not later than
22 January 15, 2010, to the House of Representatives Appropriations Subcommittee on Health and
23 Human Services, the Senate Appropriations Committee on Health and Human Services, and the
24 Fiscal Research Division.

25 26 **FUNDS FOR SCHOOL NURSES**

27 **SECTION 10.35.(a)** All funds appropriated for the school nurse initiative shall be
28 used to supplement and not supplant other State, local, or federal funds appropriated or
29 allocated for this purpose. Communities shall maintain their current level of effort and funding
30 for school nurses. These funds shall not be used for funding nurses for State agencies. All
31 funds shall be used for direct services.

32 **SECTION 10.35.(b)** All school nurses funded with State funds shall participate, as
33 needed, in child and family teams.

34 35 **AIDS DRUG ASSISTANCE PROGRAM**

36 **SECTION 10.36.** For the 2009-2010 and 2010-2011 fiscal years, the Department
37 may, within existing ADAP Program resources, adjust the financial eligibility criterion of the
38 ADAP up to an amount not exceeding three hundred percent (300%) of the federal poverty
39 level in order to serve as many eligible North Carolinians living with HIV disease as possible
40 within existing resources plus any new federal resources. If a waiting list develops as a result of
41 the eligibility criterion being raised, the Department shall give first priority to those individuals
42 on the waiting list with income at or below one hundred twenty-five percent (125%) of the
43 federal poverty level, and second priority to those individuals with income above one hundred
44 twenty-five percent (125%) and at or below two hundred fifty percent (250%) of federal
45 poverty guidelines.

46 47 **PHYSICIAN SERVICES**

48 **SECTION 10.37.** With the approval of the Office of State Budget and
49 Management, the Department of Health and Human Services may use funds appropriated in
50 this act for across-the-board salary increases and performance pay to offset similar increases in
51 the costs of contracting with private and independent universities for the provision of physician

1 services to clients in facilities operated by the Division of Mental Health, Developmental
2 Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner
3 as is currently done with the constituent institutions of The University of North Carolina.
4

5 **LIABILITY INSURANCE**

6 **SECTION 10.38.(a)** The Secretary of the Department of Health and Human
7 Services and the Secretary of the Department of Correction may provide medical liability
8 coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of
9 the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians
10 who are faculty members of The University of North Carolina who work on contract for the
11 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for
12 incidents that occur in Division programs, and on behalf of physicians in all residency training
13 programs from The University of North Carolina who are in training at institutions operated by
14 the Department of Health and Human Services. This coverage may include commercial
15 insurance or self-insurance and shall cover these individuals for their acts or omissions only
16 while they are engaged in providing medical and dental services pursuant to their State
17 employment or training.

18 **SECTION 10.38.(b)** The coverage provided under this section shall not cover any
19 individual for any act or omission that the individual knows or reasonably should know
20 constitutes a violation of the applicable criminal laws of any state or the United States or that
21 arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to
22 willful or wanton negligence.

23 **SECTION 10.38.(c)** The coverage provided pursuant to this section shall not
24 require any additional appropriations and shall not apply to any individual providing
25 contractual service to the Department of Health and Human Services, with the exception that
26 coverage may include physicians in all residency training programs from The University of
27 North Carolina who are in training at institutions operated by the Department of Health and
28 Human Services and licensed physicians who are faculty members of The University of
29 North Carolina who work for the Division of Mental Health, Developmental Disabilities, and
30 Substance Abuse Services.
31

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

33 **SECTION 10.39.** Funds appropriated in this act for the Jim "Catfish" Hunter
34 Chapter of the ALS Association shall be expended only for services provided within North
35 Carolina.
36

37 **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH** 38 **TECHNOLOGY (NC FAST) FUNDS**

39 **SECTION 10.41.** The sum of eighteen million three hundred twenty-seven
40 thousand four hundred seventy-eight dollars (\$18,327,478) is appropriated from Budget Code
41 24441, Fund Code 2006, to the Department of Health and Human Services, Division of Central
42 Management Services, for the 2009-2010 fiscal year. These funds shall be used for the
43 development and implementation of North Carolina Families Accessing Services Through
44 Technology (NC FAST). Funds will be placed in the Department's information technology
45 budget code and will match federal funds for project implementation.
46

47 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

48 **SECTION 10.42.** The Department of Health and Human Services shall implement
49 and maintain performance standards for each of the State and county child support enforcement
50 offices across the State. These performance standards shall include the following:

- 51 (1) Cost per collections.

- (2) Consumer satisfaction.
- (3) Paternity establishments.
- (4) Administrative costs.
- (5) Orders established.
- (6) Collections on arrearages.
- (7) Location of absent parents.
- (8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

CHANGES TO FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.43.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$475.00 per child per month for children aged birth through 5;
- (2) \$581.00 per child per month for children aged 6 through 12; and
- (3) \$634.00 per child per month for children aged 13 through 18.

SECTION 10.43.(b) The maximum rates for the State adoption assistance program are established consistent with the foster care rates as follows:

- (1) \$475.00 per child per month for children aged birth through 5;
- (2) \$581.00 per child per month for children aged 6 through 12; and
- (3) \$634.00 per child per month for children aged 13 through 18.

SECTION 10.43.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 10.43.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per child per month with indeterminate HIV status;
- (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per child per month terminally ill with complex care needs.

SECTION 10.43.(e) The State and a county participating in foster care and adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a county department of social services or child placing agency in a family foster home or residential child care facility. A county shall be held harmless from contributing fifty percent (50%) of the nonfederal share of the cost for a child placed in a family foster home or residential child setting under an agreement with that provider as of October 31, 2008, until the child leaves foster care or experiences a placement change.

SECTION 10.43.(f) The Department of Health and Human Services may establish foster care and adoption assistance rates based on the United States Department of Agriculture (USDA) 'Expenditures on Children by Families' index subject to State appropriations for each fiscal year.

CHILD CARING INSTITUTIONS

SECTION 10.44. Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of

1 the Controller. In determining the maximum reimbursement, the State shall include county and
2 IV-E reimbursements.

3 4 **SPECIAL CHILDREN ADOPTION FUND**

5 **SECTION 10.45.(a)** Of the funds appropriated to the Department of Health and
6 Human Services in this act, the sum of one hundred thousand dollars (\$100,000) shall be used
7 to support the Special Children Adoption Fund for the 2009-2010 and 2010-2011 fiscal years.
8 The Division of Social Services, in consultation with the North Carolina Association of County
9 Directors of Social Services and representatives of licensed private adoption agencies, shall
10 develop guidelines for the awarding of funds to licensed public and private adoption agencies
11 upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received
12 from the Special Children Adoption Fund by participating agencies shall be used exclusively to
13 enhance the adoption services. No local match shall be required as a condition for receipt of
14 these funds. In accordance with State rules for allowable costs, the Special Children Adoption
15 Fund may be used for post-adoption services for families whose income exceeds two hundred
16 percent (200%) of the federal poverty level.

17 **SECTION 10.45.(b)** Of the total funds appropriated for the Special Children
18 Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved
19 for payment to participating private adoption agencies. If the funds reserved in this subsection
20 for payments to private agencies have not been spent on or before March 31 of each State fiscal
21 year, the Division of Social Services may reallocate those funds, in accordance with this
22 section, to other participating adoption agencies.

23 **SECTION 10.45.(c)** The Division of Social Services shall monitor the total
24 expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure
25 that the funds are used according to the guidelines established in subsection (a) of this section.
26 The Division shall implement strategies to ensure that funds that have historically reverted for
27 this program are used for the intended purpose.

28 29 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT** 30 **FUND**

31 **SECTION 10.46.(a)** Of the funds appropriated from the Escheat Fund income to
32 the Department of Health and Human Services the sum of three million one hundred sixty-eight
33 thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year and the sum of
34 three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the
35 2010-2011 fiscal year shall be used to support a child welfare postsecondary program in
36 accordance with this section. There is appropriated from the General Fund to the Department
37 of Health and Human Services the sum of one million six hundred sixty-eight thousand two
38 hundred fifty dollars (\$1,668,250) for the 2010-2011 fiscal year. These funds shall be used to
39 support a child welfare postsecondary support program for the educational needs of foster
40 youth aging out of the foster care system and special needs children adopted from foster care
41 after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20
42 U.S.C. § 10871l. The Department shall collaborate with the State Education Assistance
43 Authority to develop policies and procedures for the distribution of these funds.

44 If the interest income generated from the Escheat Fund is less than the amounts
45 referenced in this subsection, the difference may be taken from the Escheat Fund principal to
46 reach the appropriations referenced in this subsection; however, under no circumstances shall
47 the Escheat Fund principal be reduced below the sum of four hundred million dollars
48 (\$400,000,000).

49 Funds appropriated by this subsection shall be allocated by the State Education
50 Assistance Authority.

1 The purpose for which funds are appropriated under this subsection is in addition to
2 other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not
3 be construed to otherwise affect the distribution of funds under G.S. 116B-7.

4 **SECTION 10.46.(b)** Of the funds appropriated from the General Fund to the
5 Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the
6 2009-2010 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal
7 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
8 The SEAA shall use these funds only to perform administrative functions necessary to manage
9 and distribute scholarship funds under the child welfare postsecondary support program.

10 **SECTION 10.46.(c)** Of the funds appropriated from the General Fund to the
11 Department of Health and Human Services the sum of five hundred thousand dollars
12 (\$500,000) for the 2009-2010 fiscal year and the sum of five hundred thousand dollars
13 (\$500,000) for the 2010-2011 fiscal year shall be used to contract with an entity to develop and
14 administer the child welfare postsecondary support program described under subsection (a) of
15 this section, which development and administration shall include the performance of case
16 management services.

17 **SECTION 10.46.(d)** Funds appropriated to the Department of Health and Human
18 Services for the child welfare postsecondary support program shall be used only for students
19 attending public institutions of higher education in this State.

20 21 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 22 **PERFORMANCE ENHANCEMENTS**

23 **SECTION 10.47.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the
24 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to
25 children and families in cases of abuse, neglect, and dependency where a child is at imminent
26 risk of removal from the home and to children and families in cases of abuse where a child is
27 not at imminent risk of removal. The Program shall be developed and implemented statewide
28 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria
29 for determining imminent risk and clear criteria for determining out-of-home placement.

30 **SECTION 10.47.(b)** The Department of Health and Human Services shall require
31 that any program or entity that receives State, federal, or other funding for the purpose of
32 Intensive Family Preservation Services shall provide information and data that allows for:

- 33 (1) An established follow-up system with a minimum of six months of
34 follow-up services.
- 35 (2) Detailed information on the specific interventions applied including
36 utilization indicators and performance measurement.
- 37 (3) Cost-benefit data.
- 38 (4) Data on long-term benefits associated with Intensive Family Preservation
39 Services. This data shall be obtained by tracking families through the
40 intervention process.
- 41 (5) The number of families remaining intact and the associated interventions
42 while in IFPS and 12 months thereafter.
- 43 (6) The number and percentage by race of children who received Intensive
44 Family Preservation Services compared to the ratio of their distribution in
45 the general population involved with Child Protective Services.

46 **SECTION 10.47.(c)** The Department shall establish performance-based funding
47 protocol and shall only provide funding to those programs and entities providing the required
48 information specified in subsection (b) of this section. The amount of funding shall be based on
49 the individual performance of each program.

1 **SECTION 10.47.(d)** The Department shall publish an annual report on the
2 Intensive Family Preservation Services Program, including the information and data under
3 subdivisions (b)(2) through (b)(6) of this section.
4

5 **TANF BENEFIT IMPLEMENTATION**

6 **SECTION 10.48.(a)** The General Assembly approves the plan titled "North
7 Carolina Temporary Assistance for Needy Families State Plan fiscal year 2009-2011," prepared
8 by the Department of Health and Human Services and presented to the General Assembly. The
9 North Carolina Temporary Assistance for Needy Families State Plan covers the period October
10 1, 2009, through September 30, 2011. The Department shall submit the State Plan, as revised in
11 accordance with subsection (b) of this section, to the United States Department of Health and
12 Human Services, as amended by this act or any other act of the 2009 General Assembly.

13 **SECTION 10.48.(b)** The counties approved as Electing Counties in North
14 Carolina's Temporary Assistance for Needy Families State Plan fiscal year 2009-2011 as
15 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon,
16 and Wilson.

17 **SECTION 10.48.(c)** Counties that submitted the letter of intent to remain as an
18 Electing County or to be redesignated as an Electing County and the accompanying county plan
19 for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the
20 Electing County budget requirements effective July 1, 2009. For programmatic purposes, all
21 counties referred to in this subsection shall remain under their current county designation
22 through September 30, 2009.
23

24 **LIMITATION ON STATE ABORTION FUND**

25 **SECTION 10.49.** The limitations on funding of the performance of abortion
26 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section
27 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2009-2010 and 2010-2011 fiscal
28 years.
29

30 **COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH 31 AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY 32 PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND 33 FAMILY TEAM INITIATIVE**

34 **SECTION 10.50.(a)** School-Based Child and Family Team Initiative Established.
35

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

- 48 a. The development of a strong infrastructure of interagency
49 collaboration;
- 50 b. One child, one team, one plan;
- 51 c. Individualized strengths-based care;

- 1 d. Accountability;
- 2 e. Cultural competence;
- 3 f. Children at risk of school failure or out-of-home placement may
- 4 enter the system through any participating agency;
- 5 g. Services shall be specified, delivered, and monitored through a
- 6 unified Child and Family Plan that is outcome-oriented and
- 7 evaluation-based;
- 8 h. Services shall be the most efficient in terms of cost and effectiveness
- 9 and shall be delivered in the most natural settings possible;
- 10 i. Out-of-home placements for children shall be a last resort and shall
- 11 include concrete plans to bring the children back to a stable,
- 12 permanent home, their schools, and their community; and
- 13 j. Families and consumers shall be involved in decision making
- 14 throughout service planning, delivery, and monitoring.
- 15 (2) Program goals and services. – In order to ensure that children receiving
- 16 services are appropriately served, the affected State and local agencies shall:
- 17 a. Increase capacity in the school setting to address the academic,
- 18 health, mental health, social, and legal needs of children.
- 19 b. Ensure that children receiving services are screened initially to
- 20 identify needs and assessed periodically to determine progress and
- 21 sustained improvement in educational, health, safety, behavioral, and
- 22 social outcomes.
- 23 c. Develop uniform screening mechanisms and a set of outcomes that
- 24 are shared across affected agencies to measure children's progress in
- 25 home, school, and community settings.
- 26 d. Promote practices that are known to be effective based upon research
- 27 or national best practice standards.
- 28 e. Review services provided across affected State agencies to ensure
- 29 that children's needs are met.
- 30 f. Eliminate cost shifting and facilitate cost-sharing among
- 31 governmental agencies with respect to service development, service
- 32 delivery, and monitoring for participating children and their families.
- 33 g. Participate in a local memorandum of agreement signed annually by
- 34 the participating superintendent of the local LEA, directors of the
- 35 county departments of social services and health, director of the local
- 36 management entity, the chief district court judge, and the chief
- 37 district court counselor.
- 38 (3) Local level responsibilities. – In coordination with the North Carolina Child
- 39 and Family Leadership Council (Council), the local board of education shall
- 40 establish the School-Based Child and Family Team Initiative (Initiative) at
- 41 designated schools and shall appoint the Child and Family Team Leaders
- 42 who shall be a school nurse and a school social worker. Each local
- 43 management entity that has any selected schools in its catchment area shall
- 44 appoint a Care Coordinator, and any department of social services that has a
- 45 selected school in its catchment area shall appoint a Child and Family Teams
- 46 Facilitator. The Care Coordinators and Child and Family Team Facilitators
- 47 shall have as their sole responsibility working with the selected schools in
- 48 their catchment areas and shall provide training to school-based personnel,
- 49 as required. The Child and Family Team Leaders shall identify and screen
- 50 children who are potentially at risk of academic failure or out-of-home
- 51 placement due to physical, social, legal, emotional, or developmental factors.

1 Based on the screening results, responsibility for developing, convening, and
2 implementing the Child and Family Team Initiative is as follows:

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

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

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

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

- 42 (5) Local advisory committee. – In each county with a participating school, the
43 superintendent of the local LEA shall either identify an existing cross agency
44 collaborative or council, or shall form a new group, to serve as a local
45 advisory committee to work with the Initiative. Newly formed committees
46 shall be chaired by the superintendent and one other member of the
47 committee to be elected by the committee. The local advisory committee
48 shall include the directors of the county departments of social services and
49 health, the directors of the local management entity, the chief district court
50 judge, the chief district court counselor, the director of a school-based or
51 school-linked health center if a center is located within the catchment area of

1 the School-Based Child and Family Team Initiative, and representatives of
2 other agencies providing services to children, as designated by the
3 committee. The members of the committee shall meet as needed to monitor
4 and support the successful implementation of the School-Based Child and
5 Family Team Initiative.

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

9 **SECTION 10.50.(b)** North Carolina Child and Family Leadership Council. –

10 (1) Leadership Council established; location. – There is established the North
11 Carolina Child and Family Leadership Council (Council). The Council shall
12 be located within the Department of Administration for organizational and
13 budgetary purposes.

14 (2) Purpose. – The purpose of the Council is to review and advise the Governor
15 in the development of the School-Based Child and Family Team Initiative
16 and to ensure the active participation and collaboration in the Initiative by all
17 State agencies and their local counterparts providing services to children in
18 participating counties in order to increase the academic success and reduce
19 out-of-home and out-of-county placements of children at risk of academic
20 failure.

21 (3) Membership. – The Superintendent of Public Instruction and the Secretary
22 of Health and Human Services shall serve as cochairs of the Council.
23 Council membership shall include the Secretary of the Department of
24 Juvenile Justice and Delinquency Prevention, the Chairman of the State
25 Board of Education, the Director of the Administrative Office of the Courts,
26 and other members as appointed by the Governor.

27 (4) The Council shall:

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

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

1 **SECTION 10.50.(c)** Department of Health and Human Services. – The Secretary
2 of the Department of Health and Human Services shall ensure that all agencies within the
3 Department collaborate in the development and implementation of the School-Based Child and
4 Family Team Initiative and provide all required support to ensure that the Initiative is
5 successful.

6 **SECTION 10.50.(d)** Department of Juvenile Justice and Delinquency Prevention.
7 – The Secretary of the Department of Juvenile Justice and Delinquency Prevention shall ensure
8 that all agencies within the Department collaborate in the development and implementation of
9 the School-Based Child and Family Team Initiative and provide all required support to ensure
10 that the Initiative is successful.

11 **SECTION 10.50.(e)** Administrative Office of the Courts. – The Director of the
12 Administrative Office of the Courts shall ensure that the Office collaborates in the development
13 and implementation of the School-Based Child and Family Team Initiative and shall provide all
14 required support to ensure that the Initiative is successful.

15 **SECTION 10.50.(f)** Department of Public Instruction. – The Superintendent of
16 Public Instruction shall ensure that the Department collaborates in the development and
17 implementation of the School-Based Child and Family Team Initiative and shall provide all
18 required support to ensure that the Initiative is successful.

19 20 **STATE-COUNTY SPECIAL ASSISTANCE**

21 **SECTION 10.51.(a)** The eligibility of Special Assistance recipients residing in
22 adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special
23 Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report
24 and Related Services, providing these recipients are otherwise eligible. The maximum monthly
25 rate for these residents in adult care home facilities shall be one thousand two hundred
26 thirty-one dollars (\$1,231) per month per resident.

27 **SECTION 10.51.(b)** Effective January 1, 2009, the maximum monthly rate for
28 residents in adult care home facilities shall be one thousand two hundred seven dollars (\$1,207)
29 per month per resident unless adjusted by the Department in accordance with subsection (d) of
30 this section.

31 **SECTION 10.51.(c)** The maximum monthly rate for residents in
32 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars
33 (\$1,515) per month per resident unless adjusted by the Department in accordance with
34 subsection (d) of this section.

35 **SECTION 10.51.(d)** Notwithstanding any other provision of this section, the
36 Department of Health and Human Services shall review activities and costs related to the
37 provision of care in adult care homes and shall determine what costs may be considered to
38 properly maximize allowable reimbursement available through Medicaid personal care services
39 for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary
40 approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the
41 Office of State Budget and Management, the Department may transfer necessary funds from
42 the State-County Special Assistance program within the Division of Social Services to the
43 Division of Medical Assistance and may use those funds as State match to draw down federal
44 matching funds to pay for such activities and costs under Medicaid's personal care services for
45 adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for
46 State-County Special Assistance set forth in subsections (b) and (c) of this section shall be
47 adjusted by the Department to reflect any transfer of funds from the Division of Social Services
48 to the Division of Medical Assistance and related transfer costs and responsibilities from
49 State-County Special Assistance to the Medicaid personal care services for adult care homes
50 (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS)
51 and prior to implementing this section, the Department may disregard a limited amount of

1 income for individuals whose countable income exceeds the adjusted State-County Special
2 Assistance rate. The amount of the disregard shall not exceed the difference between the
3 Special Assistance rate prior to the adjustment and the Special Assistance rate after the
4 adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the
5 Medicaid payment for the individual's personal care services provided in an adult care home. In
6 no event shall the reimbursement for services through the ACH-PCS exceed the average cost of
7 the services as determined by the Department from review of cost reports as required and
8 submitted by adult care homes. The Department shall report any transfers of funds and
9 modifications of rates to the House of Representatives Appropriations Subcommittee on Health
10 and Human Services, the Senate Appropriations Committee on Health and Human Services,
11 and the Fiscal Research Division.

12 **SECTION 10.51.(e)** The Department of Health and Human Services shall
13 recommend rates for State-County Special Assistance and for Adult Care Home Personal Care
14 Services. The Department may recommend rates based on appropriate cost methodology and
15 cost reports submitted by adult care homes that receive State-County Special Assistance funds
16 and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care
17 Home Personal Care Services to the same standards as apply to other residential service
18 providers.

19 **SPECIAL ASSISTANCE IN-HOME**

20 **SECTION 10.52.** The Department of Health and Human Services may use funds
21 from the existing State-County Special Assistance for Adults budget to provide Special
22 Assistance payments to eligible individuals in in-home living arrangements. These payments
23 may be made for up to 1,500 individuals during the 2009-2010 fiscal year and the 2010-2011
24 fiscal year. The standard monthly payment to individuals enrolled in the Special Assistance
25 in-home program shall be seventy-five percent (75%) of the monthly payment the individual
26 would receive if the individual resided in an adult care home and qualified for Special
27 Assistance, except if a lesser payment amount is appropriate for the individual as determined
28 by the local case manager. For State fiscal year 2009-2010, qualified individuals shall not
29 receive payments at rates less than they would have been eligible to receive in State fiscal year
30 2008-2009. The Department shall implement Special Assistance in-home eligibility policies
31 and procedures to assure that in-home program participants are those individuals who need and,
32 but for the in-home program, would seek placement in an adult care home facility. The
33 Department's policies and procedures shall include the use of a functional assessment. The
34 Department shall make this in-home option available to all counties on a voluntary basis. To
35 the maximum extent possible, the Department shall consider geographic balance in the
36 dispersion of payments to individuals across the State.

37 **STUDY THE AVAILABILITY OF COMMUNITY MH/DD/SA SERVICES FOR** 38 **MILITARY FAMILIES**

39 **SECTION 10.53.** Funds appropriated in this act to the Department of Health and
40 Human Service for North Carolina Institute of Medicine (NCIOM) shall be used to study the
41 availability of Medicaid and State-funded mental health, developmental disability, and
42 substance abuse services to active duty, reserve, and veteran members of the military and
43 National Guard. The study should discuss the current availability of services, the extent of use,
44 and any gaps in services. The NCIOM shall submit a report of its findings and any
45 recommended legislation to the Governor's Office, the Joint Legislative Commission on
46 Governmental Operations, and the Joint Legislative Oversight Committee on Mental Health,
47 Developmental Disabilities, and Substance Abuse Services by February 15, 2010.

48 **STUDY COMMISSION ON THE STATEWIDE TRAUMA SYSTEM**

1 **SECTION 10.54.(a)** The General Assembly of North Carolina shall create the
2 Legislative Study Commission on the Statewide Trauma System. The Commission shall
3 consist of 12 voting members appointed as follows:

4 (1) Six members appointed by the Speaker of the House of Representatives, to
5 include:

- 6 a. Four members of the House of Representatives.
7 b. One person who is a member of the North Carolina Emergency
8 Medical Services Advisory Council.
9 c. One member of the general public.

10 (2) Six members appointed by the President Pro Tempore of the Senate, to
11 include:

- 12 a. Four members of the Senate.
13 b. One hospital Chief Executive Officer.
14 c. One member of the general public.

15 The Chief, NC Office of Emergency Medical Services, or that officer's designee,
16 shall serve as an ex officio nonvoting member of the Commission.

17 **SECTION 10.54.(b)** The Commission shall:

- 18 (1) Assess the current General Statutes to determine if changes are needed.
19 (2) Assess the financial viability of the Statewide Inclusive Trauma System.
20 (3) Determine what level of financial participation the State should appropriate
21 annually.
22 (4) Make a report to the General Assembly by the convening of the 2010
23 Regular Session.

24 **SECTION 10.54.(c)** The Speaker of the House of Representatives and the
25 President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The
26 Commission may meet in the Legislative Building or the Legislative Office Building upon the
27 approval of the Legislative Services Commission. Members of the Commission shall receive
28 per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1. The
29 appointing authority shall fill vacancies. The Commission, while in the discharge of its official
30 duties, may exercise all the powers provided under the provisions of G.S. 120-19 through
31 G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of
32 the State to provide any information, data, or documents within their possession, ascertainable
33 from their records, or otherwise available to them and the power to subpoena witnesses.

34 **SECTION 10.54.(d)** The Commission shall terminate upon filing its final report.
35

36 **DHSR LICENSE FEE INCREASES**

37 **SECTION 10.55.(a)** G.S. 131D-2(b) reads as rewritten:

38 "**§ 131D-2. Licensing of adult care homes for the aged and disabled.**

39 (b) Licensure; inspections. –

- 40 (1) The Department of Health and Human Services shall inspect and license,
41 under rules adopted by the Medical Care Commission, all adult care homes
42 for persons who are aged or mentally or physically disabled except those
43 exempt in subsection (c) of this section. Licenses issued under the authority
44 of this section shall be valid for one year from the date of issuance unless
45 revoked earlier by the Secretary for failure to comply with any part of this
46 section or any rules adopted hereunder. Licenses shall be renewed annually
47 upon filing and the Department's approval of the renewal application. The
48 Department shall charge each adult care home with six or fewer beds a
49 nonrefundable annual license fee in the amount of three hundred fifteen
50 dollars (\$315.00) ~~two hundred fifty dollars (\$250.00)~~. The Department shall
51 charge each adult care home with more than six beds a nonrefundable annual

1 license fee in the amount of three hundred sixty dollars (\$360.00) ~~three~~
2 ~~hundred fifty dollars (\$350.00)~~ plus a nonrefundable annual per-bed fee of
3 seventeen dollars and fifty cents (\$17.50) ~~twelve dollars and fifty cents~~
4 ~~(\$12.50).~~"

5 **SECTION 10.55.(b)** G.S. 131E-147 reads as rewritten:

6 **"§ 131E-147. Licensure requirement.**

7 (a) No person shall operate an ambulatory surgical facility without a license obtained
8 from the Department.

9 (b) Applications shall be available from the Department, and each application filed with
10 the Department shall contain all necessary and reasonable information that the Department may
11 by rule require. A license shall be granted to the applicant upon a determination by the
12 Department that the applicant has complied with the provisions of this Part and the rules
13 promulgated by the Commission under this Part. The Department shall charge the applicant a
14 nonrefundable annual base license fee in the amount of eight hundred fifty dollars (\$850.00)
15 ~~seven hundred dollars (\$700.00)~~ plus a nonrefundable annual per-operating room fee in the
16 amount of seventy-five dollars (\$75.00) ~~fifty dollars (\$50.00).~~"

17 **SECTION 10.55.(c)** G.S. 131E-167 reads as rewritten::

18 **"§ 131E-167. Certificate requirement.**

19 (a) Applications for certification shall be available from the Department, and each
20 application filed with the Department shall contain all necessary and reasonable information
21 that the Department may by rule require. A certificate shall be granted to the applicant for a
22 period not to exceed one year upon a determination by the Department that the applicant has
23 substantially complied with the provisions of this Article and the rules promulgated by the
24 Department under this Article. The Department shall charge the applicant a nonrefundable
25 annual certification fee in the amount of three hundred eighty-five dollars (\$385.00) ~~two~~
26 ~~hundred fifty dollars (\$250.00).~~"

27 **SECTION 10.55.(d)** G.S. 131E-138 reads as rewritten:

28 **"§ 131E-138. Licensure requirements.**

29 (c) **(Effective July 1, 2009)** An application for a license shall be available from the
30 Department, and each application filed with the Department shall contain all information
31 requested by the Department. A license shall be granted to the applicant upon a determination
32 by the Department that the applicant has complied with the provisions of this Part and the rules
33 promulgated by the Commission under this Part. The Department shall charge the applicant a
34 nonrefundable annual license fee in the amount of five hundred ten dollars (\$510.00) ~~four~~
35 ~~hundred dollars (\$400.00).~~"

36 **SECTION 10.55.(e)** G.S. 131E-77 reads as rewritten:

37 **"§ 131E-77. Licensure requirement.**

38 (a) No person or governmental unit shall establish or operate a hospital in this state
39 without a license. An infirmary is not required to obtain a license under this Part.

40 (b) The Commission shall prescribe by rule that any licensee or prospective applicant
41 seeking to make specified types of alteration or addition to its facilities or to construct new
42 facilities shall submit plans and specifications before commencement to the Department for
43 preliminary inspection and approval or recommendations with respect to compliance with the
44 applicable rules under this Part.

45 (c) An applicant for licensing under this Part shall provide information related to
46 hospital operations as requested by the Department. The required information shall be
47 submitted by the applicant on forms provided by the Department and established by rule.

48 (d) The Department shall renew each license in accordance with the rules of the
49 Commission. The Department shall charge the applicant a nonrefundable annual base license
50 fee plus a nonrefundable annual per-bed fee as follows:
51

1	Facility Type	Number of Beds	Base Fee	Per-Bed Fee
2	General Acute Hospitals:	1-49 beds	\$250.00	\$12.50 <u>\$17.50</u>
3		50-99 beds	\$350.00	\$12.50 <u>\$17.50</u>
4		100-199 beds	\$450.00	\$12.50 <u>\$17.50</u>
5		200-399 beds	\$550.00	\$12.50 <u>\$17.50</u>
6		400-699 beds	\$750.00	\$12.50 <u>\$17.50</u>
7		700+ beds	\$950.00	\$12.50 <u>\$17.50</u>
8	Other Hospitals:		\$500.00	\$12.50 <u>\$17.50</u>

9
 10 (e) The Department shall issue the license to the operator of the hospital who shall not
 11 transfer or assign it except with the written approval of the Department. The license shall
 12 designate the number and types of inpatient beds, the number of operating rooms, and the
 13 number of gastrointestinal endoscopy rooms.

14 (f) The operator shall post the license on the licensed premises in an area accessible to
 15 the public."

16 **SECTION 10.55.(f)** G.S. 122C-23 reads as rewritten:

17 **"§ 122C-23. Licensure.**

18 (h) The Department shall charge facilities licensed under this Chapter a nonrefundable
 19 annual base license fee plus a nonrefundable annual per-bed fee as follows:

21	Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
23	Facilities (non-ICF/MR):	0 beds	\$175.00 <u>\$215.00</u>	\$0
24		1 to 6 beds	\$250.00 <u>\$305.00</u>	\$0
25		More than 6 beds	\$350.00 <u>\$475.00</u>	\$12.50 <u>\$17.50</u>
26	ICF/MR Only:	1 to 6 beds	\$650.00 <u>\$845.00</u>	\$0
27		More than 6 beds	\$650.00 <u>\$800.00</u>	\$12.50 <u>\$17.50</u> "

28 **SECTION 10.55.(g)** G.S. 131E-102 reads as rewritten:

29 **"§ 131E-102. Licensure requirements.**

30 (a) No person shall operate a nursing home without a license obtained from the
 31 Department. Any person may operate a nursing home or a combination home, as defined in this
 32 Part, in the same building or in two or more buildings adjoining or next to each other on the
 33 same site. Both a nursing home and a combination home must be licensed by the Department
 34 under this Part.

35 (b) Applications shall be available from the Department, and each application filed with
 36 the Department shall contain all necessary and reasonable information that the Department may
 37 by rule require. A license shall be granted to the applicant upon a determination by the
 38 Department that the applicant has complied with the provisions of this Part and the rules
 39 promulgated under this Part. The Department shall charge the applicant a nonrefundable annual
 40 license fee in the amount of four hundred twenty dollars (\$420.00) ~~four hundred fifty dollars~~
 41 ~~(\$450.00)~~ plus a nonrefundable annual per-bed fee of seventeen dollars and fifty cents (\$17.50)
 42 ~~twelve dollars and fifty cents (\$12.50).~~"

43
 44 **NC NOVA**

45 **SECTION 10.56.** The Department of Health and Human Services, Division of
 46 Health Services Regulation, may use up to eighty-eight thousand dollars (\$88,000) for SFY
 47 2010 and ninety-three thousand seven hundred dollars (\$93,700) for SFY 2011 of existing
 48 resources to continue the NC New Organizational Vision Award certification program. The
 49 Division shall use federal civil monetary penalty receipts as a source of support for this
 50 initiative, when appropriate.

51

DMH PURCHASING

SECTION 10.57. G.S. 146-56 reads as rewritten:

"§ 143-56. Certain purchases excepted from provisions of Article.

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

- (1) Published books, manuscripts, maps, pamphlets and periodicals.
- (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for information technology purchased in accordance with Article 3D of Chapter 147 of the General Statutes, for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of G.S. 143-53.1, for group purchases made by hospitals, developmental centers, neuro-medical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program, as defined in G.S. 143-129, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a) (4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a) (4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

FILLING SERVICE GAPS

SECTION 10.58. Funds appropriated in this act for mental health services and supported employment shall be allocated to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level. Funds appropriated to the Department of Health and Human Services for the 2009-2010 and 2010-2011 fiscal years for mental health services, substance abuse services, and crisis services and allocated based on the poverty level shall continue to be allocated by the Department to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level.

INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT

SECTION 10.59.(a) Consistent with G.S. 122C-2, the General Assembly strongly encourages LMEs to use a portion of the funds appropriated for substance abuse treatment services to support prevention and education activities.

SECTION 10.59.(b) An LME may use up to one percent (1%) of funds allocated to it for substance abuse treatment services to provide nominal incentives for consumers who achieve specified treatment benchmarks, in accordance with the federal substance abuse and mental health services administration best practice model entitled Contingency Management.

SECTION 10.59.(c) In providing treatment and services for adult offenders and increasing the number of TASC case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based

1 interventions to individual needs at each stage of substance abuse treatment. Special emphasis
2 should be placed on intermediate punishment offenders, community punishment offenders at
3 risk for revocation, and DOC releasees who have completed substance abuse treatment while in
4 custody.

5 In addition to the funds appropriated in this act to the Department of Health and
6 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
7 Services, to provide substance abuse services for adult offenders and to increase the number of
8 TASC case managers, the Department shall allocate up to three hundred thousand dollars
9 (\$300,000) to Treatment Accountability for Safer Communities (TASC). These funds shall be
10 allocated to TASC before funds are allocated to local management entities for mental health
11 services, substance abuse services, and crisis services.

12 **SECTION 10.59.(d)** In providing Drug Treatment Court services, local
13 management entities shall consult with the local drug treatment court team and shall select a
14 treatment provider that meets all provider qualification requirements and the drug treatment
15 court's needs. A single treatment provider may be chosen for non-Medicaid-eligible participants
16 only. A single provider may be chosen who can work with all of the non-Medicaid-eligible
17 drug treatment court participants in a single group. During the 52-week Drug Treatment Court
18 program, participants shall receive an array of treatment and aftercare services that meets the
19 participant's level of need, including step-down services that support continued recovery.

20 **SECTION 10.59.(e)** Not later than October 1, 2009, the Department of Health and
21 Human Services shall complete the development of a Uniform Screening Tool (UST) to
22 determine the mental health of any individual admitted to any long-term care facility. The
23 Department shall report on the status of UST development on or before, January 1, 2010, to the
24 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and
25 Substance Abuse Services.

26 **SECTION 10.59.(f)** Notwithstanding G.S. 143C-9-2(b) requiring allocation of
27 funds to area programs, the Department of Health and Human Services may use up to one
28 million five hundred thousand dollars (\$1,500,000) in each of the 2009-2010 and 2010-2011
29 fiscal years from the Trust Fund for Mental Health, Developmental Disabilities, and Substance
30 Abuse Services and Bridge Funding Needs for the purposes authorized under
31 G.S. 143C-9-2(b)(1), (3), and (4).

32 **MENTAL HEALTH CHANGES**

33 **SECTION 10.60.(a)** For the purpose of mitigating cash-flow problems that many
34 non-single-stream local management entities (LMEs) experience at the beginning of each fiscal
35 year, the Department of Health and Human Services, Division of Mental Health,
36 Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method
37 by which allocations of service dollars are distributed to each non-single-stream LME. To this
38 end, the allocations shall be adjusted such that at the beginning of the fiscal year the
39 Department shall distribute not less than one-twelfth of the LME's continuation allocation and
40 subtract the amount of the adjusted distribution from the LME's total reimbursements for the
41 fiscal year.

42 **SECTION 10.60.(b)** Of the funds appropriated for substance abuse services to the
43 Department of Health and Human Services, Division of Mental Health, Developmental
44 Disabilities, and Substance Abuse Services, for the 2009-2010 and 2010-2011 fiscal years, the
45 sum of at least eight million dollars (\$8,000,000) shall be allocated for regionally purchased
46 locally hosted substance abuse services. These funds shall be used to support LMEs in
47 establishing additional regionally purchased and locally hosted substance abuse programs.
48 Funds appropriated shall be for the purpose of developing and enhancing the American Society
49 of Addiction Medicine (ASAM) continuum of care at the community level. The Department of
50 Health and Human Services shall work with LMEs in establishing these programs. LMEs shall
51

1 report to the Department of Health and Human Services on the LMEs' use of the funds.
2 Reporting dates and frequency shall be as determined by the Department.

3 **SECTION 10.60.(c)** The Department shall encourage the conversion of the
4 remaining non-single-stream LMEs to single-stream funding as soon as possible. The
5 Department shall develop prompt-pay guidelines as part of single-stream funding requirements.
6 The Department shall also develop standards for the removal of single-stream designation for
7 those LMEs that do not continue to comply with the applicable requirements for single-stream
8 funding, except that the Department's requirements shall allow for LMEs in the first year of
9 single-stream funding to have a six-month grace period to comply with the requirements from
10 the time the LME begins single-stream funding. For its report on performance measures, the
11 Department shall include a matrix by LME and performance measure of those LMEs that are
12 not meeting the performance measure.

13 **SECTION 10.60.(d)** The Department shall perform a services gap analysis of the
14 Mental Health, Developmental Disabilities, and Substance Abuse Services System. The
15 Department of Health and Human Services shall involve LMEs in performing the gap analysis.
16 The Department shall not contract with an independent entity to perform the gap analysis. The
17 Department shall report the results of its analysis to the House of Representatives
18 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
19 Committee on Health and Human Services, the Fiscal Research Division, and the Joint
20 Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance
21 Abuse Services not later than January 1, 2010.

22 **SECTION 10.60.(e)** Onetime funds appropriated in this act for the Department of
23 Health and Human Services shall be used to support the temporary operation of the Central
24 Regional Hospital Wake Unit on the Dorothea Dix campus. The Department shall evaluate the
25 need to continue the temporary operation of the Wake Unit for one additional year and provide
26 a recommendation to the Governor no later than February 15, 2010. Notwithstanding any other
27 provision of law to the contrary, the Office of State Budget and Management shall establish the
28 positions for the Central Regional Hospital Wake Unit on the Dorothea Dix campus as
29 time-limited positions.

30 **SECTION 10.60.(f)** Of the funds appropriated in this act to the Department of
31 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
32 Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred
33 fifty-five thousand dollars (\$5,755,000) shall be distributed to LMEs to support 30 mobile
34 crisis teams. The new mobile crisis units shall be distributed across the State according to need
35 as determined by the Department.

36 **SECTION 10.60.(g)** Of the funds appropriated in this act to the Department of
37 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
38 Substance Abuse Services, the sum of eight million one hundred twenty-one thousand six
39 hundred forty-four dollars (\$8,121,644) shall be allocated for the purchase of local inpatient
40 psychiatric beds or bed days. These beds or bed days shall be distributed across the State
41 according to need as determined by the Department. The Department shall enter into contracts
42 with the LMEs and community hospitals for the management of these beds or bed days. Local
43 inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including
44 the determination of which local or State hospital the individual should be admitted to pursuant
45 to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in
46 a statewide reserve at the Division of Mental Health, Developmental Disabilities, and
47 Substance Abuse Services to pay for services authorized by the LMEs and billed by the
48 hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15
49 working days of receipt of a clean claim from the hospital and shall pay the hospital within 10
50 working days of receipt of payment from the Division. If the Department determines (i) that an
51 LME is not effectively managing the beds or bed days for which it has responsibility, as

1 evidenced by beds or bed days in the local hospital not being utilized while demand for services
2 at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the
3 prompt payment provisions of this subsection, the Department may contract with another LME
4 to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary,
5 may pay the hospital directly. The Department shall develop reporting requirements for LMEs
6 regarding the utilization of the beds or bed days. Funds appropriated in this section for the
7 purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional
8 beds or bed days not currently funded by or through LMEs and shall not be used to supplant
9 other funds available or otherwise appropriated for the purchase of psychiatric inpatient
10 services under contract with community hospitals, including beds or bed days being purchased
11 through Hospital Pilot funds appropriated in S.L. 2007-323.

12 **SECTION 10.60.(h)** Of the funds appropriated in this act to the Department of
13 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
14 Substance Abuse Services, the sum of one million eight hundred seventy-six thousand two
15 hundred forty-three dollars (\$1,876,243) shall be allocated for the START crisis model for
16 developmental disability services. These funds shall be distributed to LMEs to support six
17 crisis teams. The new crisis teams shall be distributed across the State according to need as
18 determined by the Department.

19 **SECTION 10.60.(i)** Funds appropriated in this act in the amount of one million
20 eighty thousand nine hundred ninety-two dollars (\$1,080,992) for start-up and ongoing support
21 of respite beds for individuals with developmental disabilities shall be distributed across the
22 State by the Department according to need.

23 **SECTION 10.60.(j)** Of the funds appropriated in this act to the Department of
24 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
25 Substance Abuse Services, the sum of six million one hundred thirteen thousand nine hundred
26 forty-seven dollars (\$6,113,947) shall be allocated for walk-in crisis and immediate psychiatric
27 aftercare and shall be distributed to the LMEs to support 30 psychiatrists and related support
28 staff. Of these funds, the sum of one million six hundred fifty thousand dollars (\$1,650,000)
29 shall be used for telepsychiatry equipment to be owned by the LMEs and shall be distributed
30 across the State according to need as determined by the Department.

31 **SECTION 10.60.(k)** The independent and supportive living apartments for persons
32 with disabilities constructed from funds appropriated in this act for that purpose shall be
33 affordable to persons with incomes at the Supplemental Security Income (SSI) level.

34 **SECTION 10.60.(l)** The Department of Health and Human Services, Division of
35 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall implement the
36 tiered CAP-MR/DD waiver program in accordance with Section 10.49(dd) of S.L. 2007-323.
37 The Department shall implement the program with four tiers: (i) up to seventeen thousand five
38 hundred dollars (\$17,500); (ii) between seventeen thousand five hundred one dollars (\$17,501)
39 and forty-five thousand dollars (\$45,000); (iii) between forty-five thousand one dollars
40 (\$45,001) and seventy-five thousand dollars (\$75,000); and (iv) between seventy-five thousand
41 one dollars (\$75,001) and one hundred thousand dollars (\$100,000). The Department shall
42 review on a case-by-case basis tier funding in excess of one hundred thousand dollars
43 (\$100,000) and may authorize the excess amount based on standards adopted by the
44 Department.

45 **SECTION 10.60.(m)** Of the funds appropriated in this act to the Department of
46 Health and Human Services, Division of Medical Assistance, for the 2009-2010 fiscal year for
47 CAP-MR/DD slots, a portion of these funds shall be allocated for slots managed under the
48 North Carolina CAP-MR/DD 1915(c) Medicaid waiver and shall be used for tier one slots as
49 described under Section 10.15(n) of S.L. 2008-107. In addition, a portion of these funds shall
50 be allocated to fund CAP-MR/DD slots statewide to fund a combination of slots managed

1 under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver and slots managed under the
2 North Carolina Piedmont Behavioral Health Care 1915(b) and (c) Medicaid waiver.

3 **SECTION 10.60.(n)** The Department of Health and Human Services shall
4 implement a plan to catch up Piedmont Behavioral Health (PBH) CAP-MR/DD slots to the
5 State average such that one percent (1%) of the funds for turnover CAP-MR/DD slots shall be
6 transferred each year to PBH until PBH CAP-MR/DD slots reach the State per capita average
7 of slots.

8 **SECTION 10.60.(o)** The Department of Health and Human Services shall ensure
9 that veterans and their families comprise one of the target populations for mental health,
10 developmental disabilities, and substance abuse services in order that this population is eligible
11 for existing funding.

12 **SECTION 10.60.(p)** The Department of Health and Human Services shall develop
13 a plan to return the service authorization, utilization review, and utilization management
14 functions to LMEs for all clients. Not later than July 1, 2009, utilization review, utilization
15 management, and service authorization for publicly funded mental health, developmental
16 disabilities, and substance abuse services shall be returned to LMEs representing in total at
17 least thirty percent (30%) of the State's population. An LME must be accredited for national
18 accreditation under behavioral health care standards by a national accrediting entity approved
19 by the Secretary and must demonstrate readiness to meet all requirements of the existing
20 vendor contract with the Department for such services in order to provide service authorization,
21 utilization review, and utilization management to Medicaid recipients in the LME catchment
22 area. The Department shall comply with the requirements of S.L. 2007-323, Section 10.49(ee).
23 The Department shall not contract with an outside vendor for service authorization, utilization
24 review, or utilization management functions, or otherwise obligate the State for these functions
25 beyond September 30, 2010. The Department shall require LMEs to include in their service
26 authorization, utilization management, and utilization review, a review of assessments, as well
27 as person-centered plans and random or triggered audits of services and assessments. The
28 Department may also develop and implement a plan to return plan authorization for
29 CAP-MR/DD slots to LMEs.

30 31 **IMPROVE THE QUALITY OF CARE PROVIDED BY DIRECT CARE STAFF**

32 **SECTION 10.61.** To enhance the quality of care provided to clients of the
33 Division's State facilities by improving the recruitment and retention of direct care staff, the
34 Department shall partner with the Office of State Personnel to study the turnover rate and
35 salaries of health care technicians. The collaboration should result in the development of a
36 career plan that links compensation to the demonstration of skills and competencies in those
37 position classifications.

38 39 **TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED 40 SERVICES TO THE LOCAL MANAGEMENT ENTITIES**

41 **SECTION 10.62.** Consistent with the findings of the Mercer evaluation of Local
42 Management Entities (LMEs), the Department of Health and Human Services shall collaborate
43 with LMEs to enhance their administrative capabilities to assume utilization management
44 responsibilities for the provision of community-based mental health, developmental disabilities,
45 and substance abuse services. The Department may, with approval of the Office of State
46 Budget and Management, use funds available to implement this section.

47 48 **SENIOR CENTER OUTREACH**

49 **SECTION 10.63.(a)** Funds appropriated to the Department of Health and Human
50 Services, Division of Aging and Adult Services, for the 2009-2011 fiscal biennium, shall be

used by the Division of Aging and Adult Services to enhance senior center programs as follows:

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

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

SECTION 10.63.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

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

SECTION 10.63.(c) State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

DHHS BLOCK GRANTS

SECTION 10.64.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT

Local Program Expenditures

Division of Social Services

1	Work First Family Assistance (Cash Assistance)	\$87,518,579
2	Work First County Block Grants	94,453,315
3	Child Protective Services – Child Welfare Workers for Local DSSs	14,452,391
4	Work First – Connect, Inc. (Work Central)	38,548
5	Child Welfare Collaborative Transition	1,019,193

Division of Child Development

6	Subsidized Child Care Program	61,087,077
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Division of Public Health

7	Teen Pregnancy Prevention Initiatives	450,000
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DHHS Administration

8	Division of Social Services	1,093,176
9	Office of the Secretary	75,392
10	Office of the Secretary/DIRM – TANF Automation Projects	720,000
11	Office of the Secretary/DIRM – NCFAST Implementation	1,200,000

Transfers to Other Block Grants

Division of Child Development

12	Transfer to Child Care and Development Fund	84,330,900
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Division of Social Services

13	Transfer to Social Services Block Grant (SSBG) for Child Protective Services for Child Welfare Training for Counties	2,729,802
14	Transfer to SSBG for Teen Pregnancy Prevention Initiatives	2,500,000
15	Transfer to SSBG for County Departments of Social Services for Children's Services	4,500,000
16	Transfer to SSBG for Foster Care Services	390,000

TEMPORARY ASSISTANCE TO NEEDY FAMILIES

BLOCK GRANT TOTAL	\$357,396,373
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1	TEMPORARY ASSISTANCE TO NEEDY FAMILIES CONTINGENCY FUNDS BLOCK	
2	GRANT	
3	Local Program Expenditures	
4	Division of Social Services	
5	1 Work First Family Assistance (Cash Assistance)	\$1,857,193
6	2 Work First – Boys and Girls Clubs	1,200,000
7	3 Work First – After-School Services for At-Risk Children	1,229,785
8	4 Work First – After-School Programs for At-Risk Youth in Middle Schools	300,000
9	5 Work First – Connect, Inc. (Work Central)	330,000
10	6 Work First – Citizens Schools Program	360,000
11	7 County Demonstration Grants	3,239,789
12	8 Adoption Services – Special Children's Adoption Fund	3,000,000
13	9 Conversion Pay for Performance Work First Benefits	1,959,020
14	10 Family Violence Prevention	1,200,000
15	11 Functional Assessment	600,000
16	12 Electing County State Funding Swap Out	2,378,213
17	13 State Subsidized Child Care Funding Swap	12,452,484
18	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
19	CONTINGENCY FUNDS BLOCK GRANT TOTAL	\$30,106,484
20		
21	SOCIAL SERVICES BLOCK GRANT	
22	Local Program Expenditures	
23	Divisions of Social Services (DSS) and Aging & Adult Services (DAAS)	
24	1 County Departments of Social Services	
25	(Transfer from TANF – \$4,500,000)	\$ 28,868,189
26	2 State In-Home Services Fund	2,101,113
27	3 State Adult Day Care Fund	2,155,301
28	4 Child Protective Services/CPS Investigative Services –	
29	Child Medical Evaluation Program	238,321
30	5 Foster Care Services (Transfer from TANF \$390,000)	2,372,619
31	6 Maternity Homes (Transfer from TANF)	838,000
32	7 Special Children Adoption Incentive Fund	500,000
33	8 CPS – Child Welfare Training for Counties (Transfer from TANF)	2,729,802
34	Division of Aging and Adult Services	
35	9 Home and Community Care Block Grant (HCCBG)	1,834,077
36	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
37	10 Mental Health Services Program	422,003
38	11 Developmental Disabilities Services Program	5,000,000
39	12 Mental Health Services-Adult/Mental Health Services-	
40	Child/Developmental Disabilities Program/Substance	
41	Abuse Services-Adult	3,234,601
42	Division of Child Development	
43	13 Subsidized Child Care Program	3,150,000
44	Division of Vocational Rehabilitation	
45	14 Vocational Rehabilitation Services – Easter Seal Society/	
46	UCP Community Health Program	188,263
47	Division of Public Health	
48	15 Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
49	16 Services to Medically Fragile Children (Transfer from TANF)	290,000
50	DHHS Program Expenditures	
51	Division of Aging and Adult Services	

1	17	UNC-CARES Training Contract	247,920
2		Division of Services for the Blind	
3	18	Independent Living Program	3,714,211
4		Division of Health Service Regulation	
5	19	Adult Care Licensure Program	411,897
6	20	Mental Health Licensure and Certification Program	205,668
7		DHHS Administration	
8	21	Division of Aging and Adult Services	688,436
9	22	Division of Social Services	892,624
10	23	Office of the Secretary/Controller's Office	138,058
11	24	Office of the Secretary/DIRM	87,483
12	25	Division of Child Development	15,000
13	26	Division of Mental Health, Developmental Disabilities, and	
14		Substance Abuse Services	29,665
15	27	Division of Health Service Regulation	235,625
16	28	Office of the Secretary/NC Inter-Agency Council for	
17		Coordinating Homeless Programs	250,000
18	29	Office of the Secretary	48,053
19		Transfers to Other State Agencies	
20		Department of Administration	
21	30	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
22		Transfers to Other Block Grants	
23		Division of Public Health	
24	31	Transfer to Preventive Health Services BG for HIV/STD	
25		Prevention and Community Planning	145,819
26		SOCIAL SERVICES BLOCK GRANT TOTAL	\$63,735,946
27			
28		LOW INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	
29		Local Program Expenditures	
30		Division of Social Services	
31	1	Low Income Energy Assistance Program (LIEAP)	\$22,612,198
32	2	Crisis Intervention Program (CIP)	16,927,343
33		Office of the Secretary – Office of Economic Opportunity	
34	3	Weatherization Program	7,258,685
35	4	Heating Air Repair & Replacement Program (HARRP)	3,385,583
36		Local Administration	
37		Division of Social Services	
38	5	County DSS Administration	3,608,361
39		Office of the Secretary – Office of Economic Opportunity	
40	6	Local Residential Energy Efficiency Service Providers –	
41		Weatherization	420,035
42	7	Local Residential Energy Efficiency Service Providers – HARRP	195,910
43		DHHS Administration	
44	8	Division of Social Services	275,000
45	9	Division of Mental Health/DD/SAS	11,577
46	10	Office of the Secretary/DIRM	384,494
47	11	Office of the Secretary/Controller's Office	17,566
48	12	Office of the Secretary/Office of Economic Opportunity –	
49		Weatherization	420,035
50	13	Office of the Secretary/Office of Economic Opportunity – HARRP	195,910
51		Transfers to Other State Agencies	

1	14	Department of Administration – N.C. Commission of Indian Affairs	95,469
2		LOW INCOME HOME ENERGY ASSISTANCE BLOCK	
3		GRANT TOTAL	\$55,808,166
4			
5		CHILD CARE AND DEVELOPMENT BLOCK GRANT	
6		Local Program Expenditures	
7		Division of Child Development	
8	1	Subsidized Child Care Services (CCDF)	\$144,097,307
9	2	Contract Subsidized Child Care Services Support	507,617
10	3	Subsidized Child Care Services (Transfer from TANF)	84,330,900
11	4	Quality and Availability Initiatives	24,560,876
12		Division of Social Services	
13	5	Local Subsidized Child Care Services Support	16,594,417
14		DHHS Administration	
15		Division of Child Development	
16	6	DCD Administrative Expenses	6,539,277
17		Division of Central Administration	
18	7	DHHS Central Administration – DIRM Technical Services	763,356
19		CHILD CARE AND DEVELOPMENT BLOCK GRANT TOTAL	\$277,393,750
20			
21		ADDITIONAL CHILD CARE AND DEVELOPMENT BLOCK GRANT RECEIVED	
22		THROUGH THE AMERICAN REINVESTMENT AND RECOVERY ACT (ARRA)	
23		Local Program Expenditures	
24		Division of Child Development	
25	1	Subsidized Child Care Services (CCDF)	\$ 53,993,329
26	2	Contract Subsidized Child Care Services Support	29,030
27		DHHS Program Expenditures	
28		Division of Child Development	
29	3	Quality and Availability Initiatives	11,519,144
30		Local Administration	
31		Division of Social Services	
32	4	Subsidy Services Support	2,001,631
33		ADDITIONAL CHILD CARE AND DEVELOPMENT BLOCK GRANT	
34		RECEIVED THROUGH ARRA TOTAL	\$ 67,543,143
35			
36		MENTAL HEALTH BLOCK GRANT	
37		Local Program Expenditures	
38		Division of Mental Health/DD/SAS	
39	1	Mental Health Services – Adult	\$5,877,762
40	2	Mental Health Services – Child	3,921,991
41	3	Comprehensive Treatment Service Program	1,500,000
42	4	Mental Health Services – UNC School of Medicine, Department of Psychiatry	300,000
43			
44		DHHS Administration	
45		Division of Mental Health/DD/SAS	
46	6	Division of Mental Health	100,000
47		MENTAL HEALTH BLOCK GRANT	\$11,699,753
48			
49		SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
50		Local Program Expenditures	
51		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	

1	1	Substance Abuse Services – Adult	\$22,008,080
2	2	Substance Abuse Treatment Alternatives for Women	8,069,524
3	3	Substance Abuse – HIV and IV Drug	5,116,378
4	4	Substance Abuse Prevention – Child	7,186,857
5	5	Substance Abuse Services – Child	4,940,500
6		Division of Public Health	
7	6	Risk Reduction Projects	633,980
8	7	Aid to Counties	209,576
9	8	Maternal Health	37,779
10		DHHS Administration	
11		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
12	9	Division of Mental Health	500,000
13		SUBSTANCE ABUSE PREVENTION AND TREATMENT	
14		BLOCK GRANT TOTAL	\$48,702,674
15			
16		MATERNAL AND CHILD HEALTH BLOCK GRANT	
17		Local Program Expenditures	
18		Division of Public Health	
19	1	Children's Health Services	\$7,534,865
20	2	Women's Health	7,701,691
21	3	Oral Health	38,041
22		DHHS Program Expenditures	
23		Division of Public Health	
24	4	Children's Health Services	1,359,636
25	5	Women's Health	135,452
26	6	State Center for Health Statistics	179,483
27	7	Quality Improvement in Public Health	14,646
28	8	Health Promotion	88,746
29	9	Office of Minority Health	55,250
30	10	Immunization Program	382,648
31		DHHS Administration	
32		Division of Public Health	
33	11	Division of Public Health Administration	631,966
34		MATERNAL AND CHILD HEALTH BLOCK GRANT TOTAL	\$18,122,424
35			
36		PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT	
37		Local Program Expenditures	
38		Division of Public Health	
39	1	NC Statewide Health Promotion	\$1,730,653
40	2	Services to Rape Victims	197,112
41	3	HIV/STD Prevention and Community Planning (Transfer from SSBG)	145,819
42		DHHS Program Expenditures	
43		Division of Public Health	
44	4	NC Statewide Health Promotion	1,699,044
45	5	Oral Health	70,000
46	6	State Laboratory of Public Health	16,600
47		PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT TOTAL	\$3,859,228
48			
49		COMMUNITY SERVICES BLOCK GRANT	
50		Local Program Expenditures	
51		Office of Economic Opportunity	

1	1	Community Action Agencies	\$16,673,336
2	2	Limited Purpose Agencies	926,297
3		DHHS Administration	
4	3	Office of Economic Opportunity	926,296
5		COMMUNITY SERVICES BLOCK GRANT TOTAL	\$18,525,929
6			
7		COMMUNITY SERVICES RECOVERY FUNDS BLOCK GRANT	
8		Local Program Expenditures	
9		Office of Economic Opportunity	
10	1	Community Action Agencies	\$20,558,584
11	2	Limited Purpose Agencies	1,093,541
12		DHHS Administration	
13	3	Office of Economic Opportunity	218,709
14		COMMUNITY SERVICES RECOVERY FUNDS BLOCK GRANT TOTAL	\$21,870,834

16 **SECTION 10.64.(b)** Changes in Federal Fund Availability. – If the Congress of
17 the United States increases the federal fund availability for any of the Block Grants
18 administered by the Department of Health and Human Services from the amounts appropriated
19 in this section, the Department shall allocate the increase proportionally across the program and
20 activity appropriations identified for that Block Grant in this section. In allocating an increase
21 in federal fund availability, the Department shall not propose funding for new programs or
22 activities not appropriated in this section.

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

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

35 **SECTION 10.64.(c)** Appropriations from federal block grant funds are made for
36 the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year
37 2009-2010 or until a new schedule is enacted by the North Carolina General Assembly.

38 **SECTION 10.64.(d)** All changes to the budgeted allocations to the Block Grants
39 administered by the Department of Health and Human Services that are not specifically
40 addressed in this section shall be approved by the Office of State Budget and Management, and
41 a report shall be submitted to the Joint Legislative Commission on Governmental Operations
42 for review prior to implementing the changes. All changes to the budgeted allocations to the
43 Block Grant shall be reported immediately to the House of Representatives Appropriations
44 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
45 and Human Services, and the Fiscal Research Division. This subsection does not apply to
46 Block Grant changes caused by legislative salary increases and benefit adjustments.

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

48 **SECTION 10.64.(e)** Payment for subsidized child care services provided with
49 federal TANF funds shall comply with all regulations and policies issued by the Division of
50 Child Development for the subsidized child care program.
51

1 **SECTION 10.64.(f)** If funds appropriated through the Child Care and
2 Development Fund Block Grant for any program cannot be obligated or spent in that program
3 within the obligation or liquidation periods allowed by the federal grants, the Department may
4 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
5 grant, in order to use the federal funds fully.

6 7 **ADDITIONAL CHILD CARE AND DEVELOPMENT BLOCK GRANT**

8 **SECTION 10.64.(g)** Funds from the Child Care and Development Block Grant
9 made available through the American Reinvestment and Recovery Act shall be used to increase
10 access to child care subsidy to the maximum extent possible and shall not be used to supplant
11 other appropriations, regardless of the funding source, for child care subsidy. To help address
12 the economic downturn and increasing unemployment in North Carolina, the Department of
13 Health and Human Services, Division of Child Development shall temporarily adopt policies
14 that facilitate and expedite the prudent expenditure of these funds as follows:

- 15 (1) Permit the local purchasing agencies to issue time-limited vouchers to assist
16 counties in managing onetime, nonrecurring subsidy funding,
- 17 (2) Extend the current 30/60 day job search policy to six months when a
18 recipient experiences a loss of employment,
- 19 (3) Provide an upfront job search period of six months for former recipients that
20 have lost employment since October 1, 2008,
- 21 (4) Provide a job search period of six months for recipients that complete school
22 and are entering the job market,
- 23 (5) Notwithstanding any other provision of law, extend the 24-month education
24 time limit and additional 12 months for a child care recipient that has lost a
25 job since October 1, 2008, or otherwise need additional training to enhance
26 their marketable skills for job placement due to the economic downturn and
27 that have depleted their 24-month allowable education time.
- 28 (6) Lower the number of hours a parent must be working in order to be eligible
29 for subsidy to assist parents who are continuing to work but at reduced
30 hours.

31 These principles shall apply to persons receiving subsidy prior to September 30,
32 2011, when the Child Care and Development Block grant funds received through the American
33 Reinvestment and Recovery Act are required to be spent or returned to the federal government.

34 **SECTION 10.64.(h)** If American Reinvestment and Recovery Act funds
35 appropriated through the Child Care and Development Fund Block Grant for any program
36 cannot be obligated or spent in that program within the obligation or liquidation periods
37 allowed by the federal grants, the Department may move funds to child care subsidies, unless
38 otherwise prohibited by federal requirements of the grant, in order to use the federal funds
39 fully.

40 41 **SOCIAL SERVICES BLOCK GRANT**

42 **SECTION 10.64.(i)** Social Services Block Grant funds appropriated to the North
43 Carolina Inter-Agency Council for Coordinating Homeless Programs are exempt from the
44 provisions of 10A NCAC 71R 0201(3). The Special Children's Adoption Incentive Fund will
45 require fifty percent (50%) local match.

46 47 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT**

48 **SECTION 10.64.(j)** The Department of Health and Human Services shall continue
49 to support on a recurring basis payments to maternity home providers. The budget is
50 established at one million two hundred fifty-eight thousand dollars (\$1,258,000) per year,
51 funded from eight hundred thirty-eight thousand dollars (\$838,000) in TANF Block Grant

1 funds along with federal funds and one hundred five thousand dollars (\$105,000) in state
2 appropriations available to the Department.

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

6 **REMOVE CAP ON ANIMAL DISEASE DIAGNOSTIC TEST FEES**

7 **Section 11.1.** Section 42.1(e) of Session Law 2005-276 is repealed.

9 **PESTICIDE REGISTRATION FEE**

10 **SECTION 11.2.** G.S. 143-442(b) reads as rewritten:

11 "(b) The applicant shall pay an annual registration fee of ~~one hundred dollars (\$100.00)~~
12 one hundred fifty dollars (\$150.00) plus an additional annual assessment for each brand or
13 grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the
14 applicant's gross sales of the pesticide in this State for the preceding 12 months for the period
15 ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five
16 dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional
17 two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the
18 registrant for each brand or grade of pesticide which is marketed in North Carolina prior to
19 registration as required by this Article. In the case of multi-year registration, the annual fee and
20 additional assessment for each year shall be paid at the time of the initial registration. The
21 Board shall give a pro rata refund of the registration fee and additional assessment to the
22 registrant in the event that registration is canceled by the Board or by the United States
23 Environmental Protection Agency."

25 **PETROLEUM DEVICE TECHNICIAN FEE**

26 **SECTION 11.3.** The Department of Agriculture and Consumer Services shall
27 charge an annual fee of twenty dollars (\$20.00) for the registration of petroleum device
28 technicians.

30 **PLANT CONSERVATION PROGRAM**

31 **SECTION 11.4.** From funds that are deposited with the State Treasurer pursuant to
32 G.S. 146-30 to the credit of the Department of Agriculture and Consumer Services in a capital
33 improvement account, the sum of thirty thousand dollars (\$30,000) for the 2009-2010 fiscal
34 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
35 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
36 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
37 land, such as land appraisals, land surveys, title searches, environmental studies, and for the
38 management of plant conservation program preserves owned by the Department.

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

42 **TRANSFER OF CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS TO** 43 **OFFICE OF INFORMATION TECHNOLOGY SERVICES**

44 **SECTION 12.1.** The Center for Geographic Information and Analysis is
45 transferred from the Department of Environment and Natural Resources to the Office of
46 Information Technology Services. The transfer shall have all of the elements of a Type I
47 transfer, as defined in G.S. 143A-6(a).

49 **MARINE FISHERIES FUNDS FOR THE FISHERY RESOURCES GRANT** 50 **PROGRAM**

1 **SECTION 12.2.** Of the funds appropriated in this act to the Department of
2 Environment and Natural Resources for the Division of Marine Fisheries for the Fishery
3 Resource Grant Program established under G.S. 113-200, the sum of seven hundred thirty-eight
4 thousand seven hundred seventy-one dollars (\$738,771) for each year of the 2009-2011 fiscal
5 biennium shall be used as follows: (1) six hundred thirty-eight thousand four hundred fifty-nine
6 dollars (\$638,459) shall be used for the Fishery Resource Grant Program in accordance with
7 G.S. 113-200; (2) one hundred thousand three hundred twelve dollars (\$100,312) shall be used
8 for river herring research in the Department, notwithstanding G.S. 113-200.

9
10 **NEUSE RIVER RAPID RESPONSE TEAM**

11 **SECTION 12.3.** The Neuse River Rapid Response Team within the Department of
12 Environment and Natural Resources is eliminated. In place of this program, the Department
13 shall identify existing resources to develop a statewide rapid response team that will investigate
14 fish kills, spills, algal blooms, and other water quality emergencies throughout North Carolina's
15 watersheds.

16
17 **ELIMINATE OFFICE OF ENVIRONMENTAL EDUCATION**

18 **SECTION 12.4.(a)** Part 4B of Article 7 of Chapter 143B of the General Statutes is
19 repealed.

20 **SECTION 12.4.(b)** The Office of Environmental Education within the Department
21 of Environment and Natural Resources is eliminated, and the responsibilities of the Office are
22 transferred to other programs. The Office's Program Development Coordinator position and
23 the associated functions for strategic planning and assessment of needs for environmental
24 education shall be transferred to the Museum of Natural Sciences in the Department. The
25 functions of promoting public use of environmental education centers and developing
26 partnerships to increase participation shall be transferred to the Division of Public Affairs
27 within the Department to ensure that information to educate about environmental issues is
28 available to the widest possible audience, including education professionals, the general public,
29 and students of all ages.

30 **SECTION 12.4.(c)** To ensure that environmental education is incorporated into the
31 educational programs of the State, the Department of Environment and Natural Resources, as
32 part of the Office elimination, shall transfer information about resources of the Department to
33 the following agencies where environmental education functions shall now reside: the
34 Department of Public Instruction's K-12 Curriculum Units, which develop the standard courses
35 of study related to science; the Academic and Student Services Division of the NC Community
36 College System for incorporation into curricula in Agriculture and Natural Resources and other
37 related courses of study; and the University of North Carolina General Administration's
38 Division of Academic Affairs Academic Planning area, which maintains the inventory of
39 programs of the various campuses of the University system and oversees creation of new
40 programs of study. Library resources shall be transferred to the State Library in the
41 Department of Cultural Resources. The Department of Environment and Natural Resources
42 shall provide links on its Web site to direct the public where to find these resources via
43 Web-based, interlibrary loan, or other sources.

44 **SECTION 12.4.(d)** By March 1, 2010, the Department of Environment and
45 Natural Resources, Department of Public Instruction, NC Community College System,
46 University of North Carolina, and Department of Cultural Resources shall report to the Office
47 of State Budget and Management on the steps taken to incorporate each of the functions
48 designated for transfer.

49
50 **APPROPRIATION FOR CLEAN WATER MANAGEMENT TRUST FUND**

1 **SECTION 12.5.** Notwithstanding G.S. 113A-253.1(a) for the 2009-2011 fiscal
2 biennium only, the appropriation to the Clean Water Management Trust Fund for the
3 2009-2010 fiscal year is seventy-five million dollars (\$75,000,000), and the appropriation for
4 the 2010-2011 fiscal year is seventy-five million dollars (\$75,000,000) as provided by this act.
5 The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as
6 provided by G.S. 113A-253.
7

8 **PART XIII. DEPARTMENT OF COMMERCE**

9 **EMPLOYMENT SECURITY COMMISSION FUNDS**

10 **SECTION 13.1.(a)** Funds from the Employment Security Commission Reserve
11 Fund shall be available to the Employment Security Commission of North Carolina to use as
12 collateral to secure federal funds and to pay the administrative costs associated with the
13 collection of the Employment Security Commission Reserve Fund surcharge. The total
14 administrative costs paid with funds from the Reserve in the 2009-2010 fiscal year shall not
15 exceed two million five hundred thousand dollars (\$2,500,000).
16

17 **SECTION 13.1.(b)** There is appropriated from the Employment Security
18 Commission Reserve Fund to the Employment Security Commission of North Carolina the sum
19 of twenty million dollars (\$20,000,000) for the 2009-2010 fiscal year to be used for the
20 following purposes:

- 21 (1) \$19,700,000 for the operation and support of local ESC offices.
- 22 (2) \$200,000 for the State Occupational Information Coordinating Committee to
23 develop and operate an interagency system to track former participants in
24 State education and training programs.
- 25 (3) \$100,000 to maintain compliance with Chapter 96 of the General Statutes,
26 which directs the Commission to employ the Common Follow-Up
27 Management Information System to evaluate the effectiveness of the State's
28 job training, education, and placement programs.

29 **SECTION 13.1.(c)** There is appropriated from the Employment Security
30 Commission Reserve Fund to the Employment Security Commission of North Carolina an
31 amount not to exceed one million dollars (\$1,000,000) for the 2009-2010 fiscal year to fund
32 State initiatives not currently funded through federal grants.
33

34 **CHANGE SAFETY EDUCATION SECTION TO RECEIPT SUPPORT**

35 **SECTION 13.2.** The Safety Education Section of the Industrial Commission shall
36 become fee supported effective July 1, 2010. The Industrial Commission is authorized to
37 establish a fee schedule for all services provided by the Safety Education Section to support the
38 operations of this program.
39

40 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

41 **SECTION 13.3.(a)** The North Carolina Industrial Commission may continue to
42 retain the additional revenue generated as a result of the increase in the fee charged to parties
43 for the filing of compromised settlements from the previous amount of two hundred dollars
44 (\$200.00) to the new fee not to exceed three hundred twenty-five dollars (\$325.00). These
45 funds shall be used for the purpose of replacing existing computer hardware and software used
46 for the operations of the Commission. These funds may also be used to prepare any assessment
47 of hardware and software needs prior to purchase and to develop and administer the needed
48 database(s) and new Electronic Case Management System, including the establishment of two
49 time-limited positions for application development and support and mainframe migration. The
50 Commission may not retain any fees under this section unless they are in excess of the former

1 two hundred dollar (\$200.00) fee charged by the Commission for filing a compromised
2 settlement.

3 **SECTION 13.3.(b)** Nothing in this section shall be deemed to limit or restrict the
4 Commission's authority to increase fees for purposes other than those indicated in subsection
5 (a) of this section.

6 **SECTION 13.3.(c)** Unexpended and unencumbered fees retained by the Industrial
7 Commission under subsection (a) of this section shall not revert to the General Fund on June 30
8 of each fiscal year, but shall remain available to the Commission for the purposes stated in
9 subsection (a) of this section.

10 **SECTION 13.3.(d)** The Commission may retain additional fees as authorized by
11 subsection (a) of this section for the 2009-2011 biennium.

12 **NC GREEN BUSINESS FUND**

13 **SECTION 13.4.** Of the funds appropriated to the NC Green Business Fund for
14 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become
15 unencumbered and unexpended thereafter, the Department of Commerce may use up to fifty
16 thousand dollars (\$50,000) in the 2009-2010 fiscal year, if necessary, to cover the Department's
17 expenses in administering the NC Green Business Fund.

18 **ONE NORTH CAROLINA FUND**

19 **SECTION 13.5.** Of the funds appropriated to the One North Carolina Fund for
20 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become
21 unencumbered and unexpended thereafter, the Department of Commerce may use up to three
22 hundred thousand dollars (\$300,000) to cover its expenses in administering the One North
23 Carolina Fund and other economic development incentive grant programs during the
24 2009-2010 fiscal year.

25 **EXTEND JOB DEVELOPMENT INVESTMENT GRANT PROGRAM**

26 **SECTION 13.6.** G.S. 143B-437.62 reads as rewritten:

27 "The authority of the Committee to enter into new agreements expires January 1, ~~2010~~
28 2012."

29 **PART XIV. JUDICIAL DEPARTMENT**

30 **JUDICIAL DEPARTMENT GRANT FUNDS**

31 **SECTION 14.1.** Notwithstanding G.S. 143C-6-9, the Judicial Department may use
32 up to the sum of one million five hundred thousand dollars (\$1,500,000) during the 2009-2010
33 fiscal year from funds available to the Department to provide the State match needed in order to
34 receive grant funds. Prior to using these funds for this purpose, the Department shall report to
35 the Chairs of the House of Representative and the Senate Appropriations Subcommittees on
36 Justice and Public Safety and to the Joint Legislative Commission of Governmental Operations
37 on the grants to be matched using these funds.

38 **GUIDELINES FOR MAXIMIZING EFFICIENCY OF PROCEEDINGS**

39 **SECTION 14.2.** By December 1, 2009, the Administrative Office of the Courts
40 shall develop guidelines to be applied to maximize efficient use of the time of probation
41 officers and court personnel participating in probation revocation proceedings. The
42 Administrative Office of the Courts may also adopt guidelines for maximizing the efficient use
43 of the time of law enforcement personnel participating in the Criminal District Courts.

44 **ELIMINATE SENTENCING SERVICES PROGRAM**

1 **SECTION 14.3.** Article 61 of Chapter 7A of the General Statutes is repealed.

2
3 **INCREASE COURT FEES**

4 **SECTION 14.4.** The Administrative Office of the Courts is authorized to increase
5 various court fees by a total of ten dollars (\$10.00).

6
7 **PART XV. DEPARTMENT OF JUSTICE**

8
9 **INCREASE CRIME LAB ANALYSIS FEE**

10 **SECTION 15.1.** G.S. 7A-304(7) reads as rewritten:

11 "(7) For the services of the State Bureau of Investigation laboratory facilities, the
12 district or superior court judge shall, upon conviction, order payment of the
13 sum of ~~three hundred dollars (\$300)~~ six hundred dollars (\$600.00) to be
14 remitted to the Department of Justice for support of the State Bureau of
15 Investigation. This cost shall be assessed only in cases in which, as part of
16 the investigation leading to the defendant's conviction, the laboratories have
17 performed DNA analysis of the crime, tests of bodily fluids of the defendant
18 for the presence of alcohol or controlled substances, or analysis of any
19 controlled substance possessed by the defendant or the defendant's agent.
20 The court may waive or reduce the amount of the payment required by this
21 subdivision upon a finding of just cause to grant such a waiver or reduction."
22

23 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
24 **PREVENTION**

25
26 **ESTABLISHMENT OF A GANG PREVENTION AND INTERVENTION PILOT**
27 **PROGRAM**

28 **SECTION 16.1.** The Department of Juvenile Justice and Delinquency Prevention
29 shall establish a two-year Gang Prevention and Intervention Pilot Program, as part of the
30 Governor's Comprehensive Gang Initiative, that will focus on youth at risk for gang
31 involvement and those who are already associated with gangs and gang activity. The
32 Department of Juvenile Justice and Delinquency Prevention shall:

- 33 (1) Ensure that measurable performance indicators and systems are put in place
34 to evaluate the effectiveness of the pilot program, and
35 (2) Conduct both process and outcome-focused evaluations of the pilot program
36 to determine community and institutional impacts of the pilot program
37 pertaining to gang behavior, desistance, and/or activities. These evaluations
38 may consider the degree of successful implementation of the program and
39 measurable changes in gang related and/or gang affiliated behaviors noted in
40 institutional, court system, and communities and related programs.
41

42 **ELIMINATE SUPPORT OUR STUDENTS PROGRAM**

43 **SECTION 16.2.** Part 5A of Article 3 of Chapter 143B of the General Assembly is
44 repealed.
45

46 **PART XVII. DEPARTMENT OF CORRECTION**

47
48 **INMATE ROAD SQUADS AND LITTER CREWS**

49 **SECTION 17.1.** Of the funds appropriated to the Department of Transportation in
50 this act, the sum of eleven million three hundred thousand dollars (\$11,300,000) per year shall
51 be transferred by the Department to the Department of Correction during the 2009-2010 and

1 2010-2011 fiscal years for the cost of operating medium custody inmate road squads, as
2 authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be
3 made quarterly in the amount of two million eight hundred twenty-five thousand dollars
4 (\$2,825,000). The Department of Transportation may use funds appropriated in this act to pay
5 an additional amount exceeding the eleven million three hundred thousand dollars
6 (\$11,300,000), but those payments shall be subject to negotiations among the Department of
7 Transportation, the Department of Correction, and the Office of State Budget and Management
8 prior to payment by the Department of Transportation.
9

10 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**
11 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**
12 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

13 **SECTION 17.2.** Notwithstanding G.S. 143C-6-9, the Department of Correction
14 may use funds available to the Department for the 2009-2011 fiscal biennium to pay the sum of
15 forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted
16 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as
17 provided in G.S. 148-29.
18

19 **USE OF CLOSED PRISON FACILITIES**

20 **SECTION 17.3.** In conjunction with the closing of prison facilities, including
21 small expensive prison units recommended for consolidation by the Government Performance
22 Audit Committee, the Department of Correction shall consult with the county or municipality
23 in which the unit is located, with the elected State and local officials, and with State agencies
24 about the possibility of converting that unit to other use. The Department may also consult with
25 any private for-profit or nonprofit firm about the possibility of converting the unit to other use.
26 In developing a proposal for future use of each unit, the Department shall give priority to
27 converting the unit to other criminal justice use. Consistent with existing law and the future
28 needs of the Department of Correction, the State may provide for the transfer or the lease of
29 any of these units to counties, municipalities, State agencies, or private firms wishing to
30 convert them to other use. The Department of Correction may also consider converting some of
31 the units recommended for closing from one security custody level to another, where that
32 conversion would be cost-effective. A prison unit under lease to a county pursuant to the
33 provisions of this section for use as a jail is exempt for the period of the lease from any of the
34 minimum standards adopted by the Secretary of Health and Human Services pursuant to
35 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater
36 standards than those required of a unit of the State prison system.
37

38 Prior to any transfer or lease of these units, the Department of Correction shall
39 report on the terms of the proposed transfer or lease to the Joint Legislative Commission on
40 Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile
41 Justice Oversight Committee. The Department of Correction shall also provide annual
42 summary reports to the Joint Legislative Commission on Governmental Operations and the
43 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
44 conversion of these units to other use and on all leases or transfers entered into pursuant to this
45 section.

46 **FEDERAL GRANT MATCHING FUNDS**

47 **SECTION 17.4.** Notwithstanding the provisions of G.S. 143C-6-9, the Department
48 of Correction may use up to the sum of one million dollars (\$1,000,000) during the 2009-2010
49 fiscal year from funds available to the Department to provide the State match needed in order to
50 receive federal grant funds. Prior to using funds for this purpose, the Department shall report to
51 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on

1 Justice and Public Safety and the Joint Legislative Commission on Governmental Operations
2 on the grants to be matched using these funds.

3 4 **CRIMINAL JUSTICE PARTNERSHIP**

5 **SECTION 17.5.** Notwithstanding the provisions of G.S. 143B-273.15 specifying
6 that grants to participating counties are for the full fiscal year and that unobligated funds are
7 returned to the State-County Criminal Justice Partnership Account at the end of the grant
8 period, the Department of Correction may reallocate unspent or unclaimed funds distributed to
9 counties participating in the State-County Criminal Justice Partnership Program in an effort to
10 maintain the level of services realized in previous fiscal years.

11 12 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

13 **SECTION 17.6.** The Department of Correction may continue to contract with
14 Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security
15 female inmates during the 2009-2011 fiscal biennium. Energy Committed To Offenders, Inc.,
16 shall report by February 1 of each year to the Joint Legislative Commission on Governmental
17 Operations on the annual cost per inmate and the average daily inmate population compared to
18 bed capacity using the same methodology as that used by the Department of Correction.

19 20 **PART XVIII. OFFICE OF STATE BUDGET AND MANAGEMENT**

21 22 **MILITARY MORALE, RECREATION, AND WELFARE FUNDS**

23 **SECTION 18.1.(a).** There is appropriated from the General Fund to a Reserve for
24 the Military Morale, Recreation, and Welfare Fund in the Office of State Budget and
25 Management the sum of one million dollars (\$1,000,000) in the 2009-2010 fiscal year.

26 **SECTION 18.1.(b)** The Office of State Budget and Management shall distribute
27 for the purposes described in this section the amount appropriated by subsection (a) of this
28 section. That amount shall be distributed to each military installation on a per capita basis.

29 **SECTION 18.1.(c)** Funds distributed to a military installation exchange under this
30 section must be deposited in the Military Morale, Recreation, and Welfare Fund for that
31 installation and used only for community services and other expenditures to improve quality of
32 life programs for military members and their families in North Carolina.

33 34 **LICENSING BOARD REPORTING REQUIREMENT**

35 **SECTION 18.2.** G.S. 93B-2(b) reads as rewritten:

36 "(b) Each occupational licensing board shall file with the Secretary of State, the Attorney
37 General, the Office of State Budget and Management, and the Joint Legislative Administrative
38 Procedure Oversight Committee a financial report that includes the source and amount of all
39 funds credited to the occupational licensing board and the purpose and amount of all funds
40 disbursed by the occupational licensing board during the previous 12-month period."

41 42 **GOVERNMENT BUDGET AND EFFICIENCY REFORM**

43 **SECTION 18.3.** The Office of State Budget and Management (OSBM) may use
44 available funds to identify and implement efficiencies and government reorganization in
45 compliance with G.S. 143B-12, 143B-10, and 143B-28. The efficiencies should include, but
46 are not limited to, the identification of program functions which could operate more efficiently
47 if consolidated; identification of programs which no longer meet critical needs of the State
48 which can be eliminated; recommendation of ways to reconfigure selected State agencies to
49 achieve greater efficiency and improve accountability; calculation of costs and benefits of
50 privatizing selected operations; calculation of costs and benefits of bringing certain contracted
51 services into government; and enhancement of systems to support such decision making on a

1 continuous basis in the future. Where appropriate, such studies shall be conducted in
2 consultation with other regulatory or oversight agencies, such as the Office of State Personnel,
3 the Office of State Controller, the Division of Purchase & Contract, the Fiscal Research
4 Division, or the Office of the Chief Information Officer. OSBM may contract with outside
5 resources where necessary and appropriate.

6 7 **STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS**

8 **SECTION 18.4.(a)** Section 6.7(a) and (c) of S.L. 2007-323 are repealed.

9 **SECTION 18.4.(b)** Section 6.7 of S.L. 2007-323 is amended by adding a new
10 subsection to read:

11 "SECTION 6.7.(f) The Office of State Budget and Management shall conduct annual
12 follow-up analyses of the core business functions of State government agencies, and shall
13 report on its findings to the Chairs of the House of Representatives Appropriations Committee,
14 to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative
15 Oversight Committee on Information Technology, and to the Fiscal Research Division, using
16 the same format as prior years, to provide comparative information regarding staffing
17 requirements for central business functions of State government. This report shall be due March
18 1, 2010 and March 1, 2011."

19 20 **PART XIX. DEPARTMENT OF STATE TREASURER**

21 22 **ESCHEAT FUND TRANSFERS TO STATE EDUCATION ASSISTANCE** 23 **AUTHORITY**

24 **SECTION 19.1.** Notwithstanding G.S. 116B-7, the income earned in 2008-2009
25 and derived from the investment or deposit of the Escheat Fund shall be distributed in two
26 semiannual payments to the State Education Assistance Authority. These payments shall be
27 made on or before July 15, 2009, and on or before November 15, 2009.

28 29 **PART XX. DEPARTMENT OF REVENUE**

30 31 **20% COLLECTION ASSISTANCE FEE**

32 **SECTION 20.1.** G.S. 105-243.1(e) reads as rewritten:

33 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of
34 collecting overdue tax debts. The proceeds of the fee must be credited to a special account
35 within the Department and may be expended only as provided in this subsection. The proceeds
36 of the fee may not be used for any purpose that is not directly and primarily related to
37 collecting overdue tax debts. The Department may apply the proceeds of the fee for the
38 purposes listed in this subsection. The remaining proceeds of the fee may be spent only
39 pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain
40 in the special account until spent for the costs of collecting overdue tax debts. The Department
41 and the Office of State Budget and Management must account for all expenditures using
42 accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts
43 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are
44 used for any purpose other than collecting overdue tax debts.

45 The Department may apply the fee proceeds for the following purposes:

- 46 (1) To pay contractors for collecting overdue tax debts under subsection (b) of
47 this section.
- 48 (2) To pay the fee the United States Department of the Treasury charges for
49 setoff to recover tax owed to North Carolina.
- 50 (3) To pay for taxpayer locator services, not to exceed one hundred fifty
51 thousand dollars (\$150,000) a year.

- 1 (4) To pay for postage or other delivery charges for correspondence directly and
2 primarily relating to collecting overdue tax debts, not to exceed three
3 hundred fifty-three thousand dollars (\$353,000) a year.
- 4 (5) To pay for operating expenses for Project Collection Tax and the Taxpayer
5 Assistance Call Center.
- 6 (6) To pay for expenses of the Examination and Collection Division directly and
7 primarily relating to collecting overdue tax debts.
- 8 (7) To pay for the replacement of the integrated tax administration system
9 (ITAS) and related e-Business initiatives, not to exceed forty million dollars
10 (\$40,000,000)."
11

12 PART XXI. NORTH CAROLINA TURNPIKE AUTHORITY

13 NORTH CAROLINA TURNPIKE AUTHORITY

14 **SECTION 21.1.** G.S. 136-89.182 reads as rewritten:

15 "(b) Administrative Placement. – The Authority shall be located within the Department
16 of Transportation ~~for administrative purposes but shall exercise all of its powers independently~~
17 ~~of the Department of Transportation except as otherwise specified in this Article, and shall be~~
18 subject to and under the direct supervision of the Secretary of Transportation. This shall be
19 treated as a Type I transfer under G.S. 143A-6.
20

21 ...

22 (d) Board of Transportation Members. ~~No more than two members~~ Members of the
23 North Carolina Board of Transportation may serve as members of the Authority Board."
24

25 PART XXII. DEPARTMENT OF TRANSPORTATION

26 **SECTION 22.1.** G.S. 20-7 (i1) is amended as follows:

27 "(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
28 the provisions of this Chapter, ~~other than G.S. 20-17(2), Chapter~~ shall pay a restoration fee of
29 fifty dollars (\$50.00). ~~A person whose drivers license has been revoked under G.S. 20-17(2)~~
30 ~~shall pay a restoration fee of seventy five dollars (\$75.00) until the end of the fiscal year in~~
31 ~~which the cumulative total amount of fees deposited under this subsection in the General Fund~~
32 ~~exceeds ten million dollars (\$10,000,000), and shall pay a restoration fee of fifty dollars~~
33 ~~(\$50.00) thereafter. The fee shall be paid to the Division prior to the issuance to such person of~~
34 ~~a new drivers license or the restoration of the drivers license. The restoration fee shall be paid~~
35 ~~to the Division in addition to any and all fees which may be provided by law. This restoration~~
36 ~~fee shall not be required from any licensee whose license was revoked or voluntarily~~
37 ~~surrendered for medical or health reasons whether or not a medical evaluation was conducted~~
38 ~~pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the~~
39 ~~seventy five dollar (\$75.00) fee, fee shall be deposited in the Highway Fund. The remaining~~
40 ~~twenty five dollars (\$25.00) of the seventy five dollar (\$75.00) fee shall be deposited in the~~
41 ~~General Fund of the State. The Office of State Budget and Management shall certify to the~~
42 ~~Department of Transportation and the General Assembly when the cumulative total amount of~~
43 ~~fees deposited in the General Fund under this subsection exceeds ten million dollars~~
44 ~~(\$10,000,000), and shall annually report to the General Assembly the amount of fees deposited~~
45 ~~in the General Fund under this subsection.~~

46 ~~It is the intent of the General Assembly to annually appropriate the funds deposited in the~~
47 ~~General Fund under this subsection to the Board of Governors of The University of North~~
48 ~~Carolina to be used for the Center for Alcohol Studies Endowment at The University of North~~
49 ~~Carolina at Chapel Hill, but not to exceed this cumulative total of ten million dollars~~
50 ~~(\$10,000,000)."~~
51

CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 22.2. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2011-2012	\$1,736.5 million
For Fiscal Year 2012-2013	\$1,835.2 million
For Fiscal Year 2013-2014	\$1,945.3 million
For Fiscal Year 2014-2015	\$2,008.7 million

SECTION 22.3. The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2011-2012	\$ 950.4 million
For Fiscal Year 2012-2013	\$1,006.9 million
For Fiscal Year 2013-2014	\$1,066.4 million
For Fiscal Year 2014-2015	\$1,108.3 million

PART XXIII. SALARIES AND BENEFITS

BONUS LEAVE IN LIEU OF LONGEVITY PAYMENTS

SECTION 23.1. For the 2009-2011 fiscal biennium, State employees eligible for longevity pay each year shall receive bonus leave in place of longevity pay. Bonus leave shall be awarded on the following schedule, which represents the working hours' equivalent of the longevity rate for each of the longevity schedules:

For those with more than 10 years of service, but less than 15:	32 hours
For those with 15 years or more, but less than 20:	48 hours
For those with 20 years or more, but less than 25:	68 hours
For those with 25 years or more:	94 hours

For those teachers and State employees with 26 years or more, basis for the calculation for retirement pay shall be based upon their salary plus the amount of longevity that would have been a part of their salary computation during the 2009-2011 fiscal biennium. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126, Section 30.12B(a) of S.L. 2003-284, and Section 29.14A of S.L. 2005-276 and shall remain available until used, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward.

This section includes employees eligible for legislative and judicial longevity.

GOVERNOR AND COUNCIL OF STATE

SECTION 23.2.(a) Effective July 1, 2009, G.S. 147-11(a) is rewritten to read:

"(a) The salary of the Governor shall remain one hundred thirty-nine thousand five hundred ninety dollars (\$139,590) annually, payable monthly."

SECTION 23.2.(b) Effective July 1, 2009, the annual salaries for the members of the Council of State, payable monthly, for the 2009-2010 and 2010-2011 fiscal years shall remain:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$ 123,198
Attorney General	123,198

1	Secretary of State	123,198
2	State Treasurer	123,198
3	State Auditor	123,198
4	Superintendent of Public Instruction	123,198
5	Agriculture Commissioner	123,198
6	Insurance Commissioner	123,198
7	Labor Commissioner	123,198

NONELECTED DEPARTMENT HEAD/SALARIES

SECTION 23.3. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2009-2010 and 2010-2011 fiscal years shall remain:

	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
14	Secretary of Administration	\$ 120,363
15	Secretary of Correction	120,363
16	Secretary of Crime Control and Public Safety	120,363
17	Secretary of Cultural Resources	120,363
18	Secretary of Commerce	120,363
19	Secretary of Environment, Health, and Natural Resources	120,363
20	Secretary of Human Resources	120,363
21	Secretary of Revenue	120,363
22	Secretary of Transportation	120,363

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARIES

SECTION 23.4. The annual salaries, payable monthly, for the 2009-2010 and 2010-2011 fiscal years for the following executive branch officials shall remain:

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
29	Chairman, Alcoholic Beverage Control Commission	\$ 109,553
30	State Controller	153,319
31	Commissioner of Motor Vehicles	109,553
32	Commissioner of Banks	123,198
33	State Personnel Director	120,363
34	Chairman, Parole Commission	100,035
35	Members of the Parole Commission	46,178
36	Chairman, Utilities Commission	137,203
37	Members of the Utilities Commission	123,198
38	Executive Director, Agency for Public Telecommunications	92,356
39	Director, Museum of Art	112,256
40	Executive Director, North Carolina Agricultural Finance Authority	106,635
41	State Chief Information Officer	153,227

JUDICIAL BRANCH OFFICIALS/SALARIES

SECTION 23.5.(a) The annual salaries, payable monthly, for specified judicial branch officials for the 2009-2010 and 2010-2011 fiscal years shall remain:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
48	Chief Justice, Supreme Court	\$ 140,932
49	Associate Justice, Supreme Court	137,249
50	Chief Judge, Court of Appeals	135,061

1	Judge, Court of Appeals	131,531
2	Judge, Senior Regular Resident Superior Court	127,957
3	Judge, Superior Court	124,382
4	Chief Judge, District Court	112,946
5	Judge, District Court	109,372
6	District Attorney	119,305
7	Administrative Officer of the Courts	126,738
8	Assistant Administrative Officer of the Courts	115,763
9	Public Defender	119,305
10	Director of Indigent Defense Services	123,022

11
12 **SECTION 23.5.(b)** The district attorney or public defender of a judicial district,
13 with the approval of the Administrative Officer of the Courts or the Commission on Indigent
14 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant
15 public defenders, respectively, in that district such that the average salaries of assistant district
16 attorneys or assistant public defenders in that district do not exceed sixty-nine thousand
17 forty-seven dollars (\$69,047), and the minimum salary of any assistant district attorney or
18 assistant public defender is at least thirty-six thousand eight-two dollars (\$36,082) effective
19 July 1, 2009.

20 **SECTION 23.5.(b1)** The district attorney or public defender of a judicial district,
21 with the approval of the Administrative Officer of the Courts or the Commission on Indigent
22 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant
23 public defenders, respectively, in that district such that the average salaries of assistant district
24 attorneys or assistant public defenders in that district do not exceed seventy thousand nine
25 hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or
26 assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars
27 (\$37,182), effective July 1, 2009.

28 **SECTION 23.5.(c)** Effective July 1, 2009, the annual salaries of permanent,
29 full-time employees of the Judicial Department whose salaries are not itemized in this act shall
30 be increased by zero percent (0%).

31 **SECTION 23.5.(d)** Effective July 1, 2009, the annual salaries of permanent,
32 part-time employees of the Judicial Department whose salaries are not itemized in this act shall
33 be increased by zero percent (0%).

34 **SECTION 23.5.(e)** Effective July 1, 2009, G.S. 7A-498.6(a) is rewritten to read:

35 "(a) The Director of Indigent Defense Services shall be appointed by the Commission
36 for a term of four years. The salary of the Director shall be set by the General Assembly in the
37 Current Operations Act after consultation with the Commission. The Director may be removed
38 during this term in the discretion of the Commission by a vote of two-thirds of all of the
39 Commission members. The Director shall be an attorney licensed and eligible to practice in the
40 courts of this State at the time of appointment and at all times during service as the Director."

41 **SECTION 23.5.(f)** Effective July 1, 2009, G.S. 7A-498.6 is amended by adding a
42 new subsection to read:

43 "(c) In lieu of merit and other increment raises paid to regular State employees, the
44 Director of Indigent Defense Services shall receive as longevity pay an amount equal to four
45 and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations
46 Appropriations Act payable monthly after five years of service, nine and six-tenths (9.6%) after
47 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen
48 and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after
49 25 years of service. "Service" means service as Director of Indigent Defense Services, a public
50 defender, appellate defender, assistant public or appellate defender, district attorney, assistant
51 district attorney, justice, or judge of the General Court of Justice, or clerk of superior court."

1
2 **SUSPEND STEP INCREASES FOR MEMBERS OF THE STATE HIGHWAY**
3 **PATROL**

4 **SECTION 23.7.** Notwithstanding G.S. 20-187.3 for the 2009-2010 fiscal year
5 only, the annual step increases for the salaries of members of the State Highway Patrol shall be
6 suspended.

7
8 **SUSPEND STEP INCREASES FOR ASSISTANT CLERKS AND DEPUTY CLERKS**

9 **SECTION 23.8.** Notwithstanding G.S. 7A-102(c) for the 2009-2010 fiscal year
10 only, the step increases for the salaries of Assistant Clerks and Deputy Clerks shall be
11 suspended.

12
13 **SUSPEND STEP INCREASES FOR MAGISTRATES**

14 **SECTION 23.9.** Notwithstanding G.S. 7A-171.1(a) and G.S. 7A-171.1(a1) for the
15 2009-2010 fiscal year only, the step increases for the salaries of Magistrates shall be suspended.

16
17 **LEGISLATIVE EMPLOYEES**

18 **SECTION 23.14.** The Legislative Services Officer shall increase the salaries of
19 nonelected employees of the General Assembly in effect for fiscal year 2009-2010 by zero
20 percent (0%). Nothing in this act limits any of the provisions of G.S. 120-32.

21
22 **COMMUNITY COLLEGES PERSONNEL/SALARIES**

23 **SECTION 23.15.** The Director of the Budget shall transfer from the Reserve for
24 Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, funds to
25 the North Carolina Community Colleges System Office necessary to provide an annual salary
26 increase of zero percent (0%), commencing July 1, 2009, for all permanent full-time
27 community college institutional personnel supported by State funds.

28
29 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARIES**

30 **SECTION 23.16.(a)** The Director of the Budget shall transfer to the Board of
31 Governors of The University of North Carolina sufficient funds from the Reserve for
32 Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, to
33 provide an annual salary increase of zero percent (0%), commencing July 1, 2009, for all
34 employees of The University of North Carolina, as well as employees other than teachers of the
35 North Carolina School of Science and Mathematics, supported by State funds and whose
36 salaries are exempt from the State Personnel Act (EPA).

37 **SECTION 23.16.(b)** The Director of the Budget shall transfer to the Board of
38 Governors of The University of North Carolina sufficient funds from the Reserve for
39 Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, to
40 provide an average annual salary increase of zero percent (0%), commencing July 1, 2009, for
41 all teaching employees of the North Carolina School of Science and Mathematics, supported by
42 State funds and whose salaries are exempt from the State Personnel Act (EPA).

43
44 **MOST STATE EMPLOYEES**

45 **SECTION 23.17.(a)** The salaries in effect June 30, 2009, of all permanent
46 full-time State employees whose salaries are set in accordance with the State Personnel Act,
47 and who are paid from the General Fund or the Highway Fund shall be increased, on or after
48 July 1, 2009, unless otherwise provided by this act, by zero percent (0%).

49 **SECTION 23.17.(b)** Except as otherwise provided in this act, the fiscal year
50 2009-2010 salaries for permanent full-time State officials and persons in exempt positions that
51 are recommended by the Governor or the Governor and the Advisory Budget Commission and

1 set by the General Assembly shall be increased by zero percent (0%), commencing July 1,
 2 2009.

3
 4 **ALL STATE-SUPPORTED PERSONNEL**

5 **SECTION 23.18.(a)** Salaries and related benefits for positions that are funded
 6 partially from the General Fund or Highway Fund and partially from sources other than the
 7 General Fund or Highway Fund shall be increased from the General Fund or Highway Fund
 8 appropriation only to the extent of the proportionate part of the salaries paid from the General
 9 Fund or Highway Fund.

10 **SECTION 23.18.(b)** The granting of the salary increases under this act does not
 11 affect the status of eligibility for salary increments for which employees may be eligible unless
 12 otherwise required by this act.

13 **SECTION 23.18.(c)** The salary increases provided in this act are to be effective
 14 July 1, 2009, and do not apply to persons separated from State service due to resignation,
 15 dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1,
 16 2009.

17 Payroll checks issued to employees after July 1, 2009, which represent payment of
 18 services provided prior to July 1, 2009, shall not be eligible for salary increases provided for in
 19 this act. This subsection shall apply to all employees, subject to or exempt from the State
 20 Personnel Act, paid from State funds, including public schools, community colleges, and The
 21 University of North Carolina.

22 **SECTION 23.18.(d)** The Director of the Budget shall transfer from the Reserve for
 23 Compensation Increases in this act for fiscal year 2009-2010 all funds necessary for the salary
 24 increases provided by this act, including funds for the employer's retirement and social security
 25 contributions.

26 **SECTION 23.18.(e)** Nothing in this act authorizes the transfer of funds between
 27 the General Fund and the Highway Fund for salary increases.

28
 29 **TEACHER SALARY SCHEDULES**

30 **SECTION 23.19.(a)** Effective for the 2009-2010 school year, the Director of the
 31 Budget shall transfer from the Reserve for Compensation Increases funds necessary to
 32 implement the teacher salary schedules set out in subsection (b) of this section and for
 33 longevity in accordance with subsection (d) of this section, including funds for the employer's
 34 retirement and social security contributions for all teachers whose salaries are supported from
 35 the State's General Fund.

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

38 **SECTION 23.19.(b)** The following monthly salary schedules shall apply for the
 39 2009-2010 fiscal year to certified personnel of the public schools who are classified as teachers.
 40 The schedule contains 32 steps with each step corresponding to one year of teaching
 41 experience.

42
 43 2009-2010 Monthly Salary Schedule

44 "A" Teachers

45 Years of Experience	"A" Teachers	NBPTS Certification
46 0	\$3,043	N/A
47 1	\$3,085	N/A
48 2	\$3,129	N/A
49 3	\$3,264	\$3,656
50 4	\$3,404	\$3,812
51 5	\$3,538	\$3,963

1	6	\$3,667	\$4,107
2	7	\$3,771	\$4,224
3	8	\$3,819	\$4,277
4	9	\$3,868	\$4,332
5	10	\$3,918	\$4,388
6	11	\$3,967	\$4,443
7	12	\$4,018	\$4,500
8	13	\$4,069	\$4,557
9	14	\$4,122	\$4,617
10	15	\$4,176	\$4,677
11	16	\$4,231	\$4,739
12	17	\$4,286	\$4,800
13	18	\$4,345	\$4,866
14	19	\$4,403	\$4,931
15	20	\$4,461	\$4,996
16	21	\$4,523	\$5,066
17	22	\$4,584	\$5,134
18	23	\$4,650	\$5,208
19	24	\$4,714	\$5,280
20	25	\$4,779	\$5,352
21	26	\$4,845	\$5,426
22	27	\$4,913	\$5,503
23	28	\$4,984	\$5,582
24	29	\$5,055	\$5,662
25	30	\$5,153	\$5,771
26	31+	\$5,255	\$5,886

2009-2010 Monthly Salary Schedule

"M" Teachers

	Years of Experience	"M" Teachers	NBPTS Certification
31	0	\$3,347	N/A
32	1	\$3,394	N/A
33	2	\$3,442	N/A
34	3	\$3,590	\$4,021
35	4	\$3,744	\$4,193
36	5	\$3,892	\$4,359
37	6	\$4,034	\$4,518
38	7	\$4,148	\$4,646
39	8	\$4,201	\$4,705
40	9	\$4,255	\$4,766
41	10	\$4,310	\$4,827
42	11	\$4,364	\$4,888
43	12	\$4,420	\$4,950
44	13	\$4,476	\$5,013
45	14	\$4,534	\$5,078
46	15	\$4,594	\$5,145
47	16	\$4,654	\$5,212
48	17	\$4,715	\$5,281
49	18	\$4,780	\$5,354
50	19	\$4,843	\$5,424
51	20	\$4,907	\$5,496

1	21	\$4,975	\$5,572
2	22	\$5,042	\$5,647
3	23	\$5,115	\$5,729
4	24	\$5,185	\$5,807
5	25	\$5,257	\$5,888
6	26	\$5,330	\$5,970
7	27	\$5,404	\$6,052
8	28	\$5,482	\$6,140
9	29	\$5,561	\$6,228
10	30	\$5,668	\$6,348
11	31+	\$5,781	\$6,475

12
13 **SECTION 23.19.(c)** Annual longevity payments for teachers shall be at the rate of
14 one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and
15 twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three
16 and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service,
17 and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The
18 longevity payment shall be paid in a lump sum once a year.

19 **SECTION 23.19.(d)** Certified public schoolteachers with certification based on
20 academic preparation at the six-year degree level shall receive a salary supplement of one
21 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for
22 certified personnel of the public schools who are classified as "M" teachers. Certified public
23 schoolteachers with certification based on academic preparation at the doctoral degree level
24 shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in
25 addition to the compensation provided for certified personnel of the public schools who are
26 classified as "M" teachers.

27 **SECTION 23.19.(e)** The first step of the salary schedule for school psychologists
28 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule
29 established in this section for certified personnel of the public schools who are classified as
30 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate
31 step based on their years of experience. Certified psychologists shall receive longevity
32 payments based on years of State service in the same manner as teachers.

33 Certified psychologists with certification based on academic preparation at the
34 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
35 (\$126.00) per month in addition to the compensation provided for certified psychologists.
36 Certified psychologists with certification based on academic preparation at the doctoral degree
37 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month
38 in addition to the compensation provided for certified psychologists.

39 **SECTION 23.19.(f)** Speech pathologists who are certified as speech pathologists at
40 the master's degree level and audiologists who are certified as audiologists at the master's
41 degree level and who are employed in the public schools as speech and language specialists and
42 audiologists shall be paid on the school psychologist salary schedule.

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

50 **SECTION 23.19.(g)** Certified school nurses who are employed in the public
51 schools as nurses shall be paid on the "M" salary schedule.

SECTION 23.19.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 23.20.(a) Effective for the 2009-2010 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 23.20.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2009-2010 fiscal year, commencing July 1, 2009, is as follows:

2009-2010 Principal and Assistant Principal Salary Schedules

	Classification					
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)	
0-4	\$3,781					
5	\$3,931					
6	\$4,074					
7	\$4,189					
8	\$4,243	\$4,243				
9	\$4,298	\$4,298				
10	\$4,353	\$4,353	\$4,408			
11	\$4,408	\$4,408	\$4,464			
12	\$4,464	\$4,464	\$4,521	\$4,579		
13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701	
14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762	
15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828	
16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891	
17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956	
18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025	
19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092	
20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166	
21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237	
22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310	
23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383	
24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458	
25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537	
26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617	
27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725	
28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839	
29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956	
30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075	
31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197	
32		\$5,956	\$6,075	\$6,197	\$6,321	
33			\$6,197	\$6,321	\$6,447	
34			\$6,321	\$6,447	\$6,576	
35				\$6,576	\$6,708	
36				\$6,708	\$6,842	
37					\$6,979	

2009-2010 Principal and Assistant Principal Salary Schedules

Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	\$4,828			
15	\$4,891			
16	\$4,956	\$5,025		
17	\$5,025	\$5,092	\$5,237	
18	\$5,092	\$5,166	\$5,310	\$5,383
19	\$5,166	\$5,237	\$5,383	\$5,458
20	\$5,237	\$5,310	\$5,458	\$5,537
21	\$5,310	\$5,383	\$5,537	\$5,617
22	\$5,383	\$5,458	\$5,617	\$5,725
23	\$5,458	\$5,537	\$5,725	\$5,839
24	\$5,537	\$5,617	\$5,839	\$5,956
25	\$5,617	\$5,725	\$5,956	\$6,075
26	\$5,725	\$5,839	\$6,075	\$6,197
27	\$5,839	\$5,956	\$6,197	\$6,321
28	\$5,956	\$6,075	\$6,321	\$6,447
29	\$6,075	\$6,197	\$6,447	\$6,576
30	\$6,197	\$6,321	\$6,576	\$6,708
31	\$6,321	\$6,447	\$6,708	\$6,842
32	\$6,447	\$6,576	\$6,842	\$6,979
33	\$6,576	\$6,708	\$6,979	\$7,119
34	\$6,708	\$6,842	\$7,119	\$7,261
35	\$6,842	\$6,979	\$7,261	\$7,406
36	\$6,979	\$7,119	\$7,406	\$7,554
37	\$7,119	\$7,261	\$7,554	\$7,705
38	\$7,261	\$7,406	\$7,705	\$7,859
39		\$7,554	\$7,859	\$8,016
40		\$7,705	\$8,016	\$8,176
41			\$8,176	\$8,340

SECTION 23.20.(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

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

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

8 **SECTION 23.20.(d)** A principal shall be placed on the step on the salary schedule
9 that reflects total number of years of experience as a certificated employee of the public schools
10 and an additional step for every three years of experience as a principal. A principal or assistant
11 principal shall also continue to receive any additional State-funded percentage increases earned
12 for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student
13 performance or maintaining a safe and orderly school.

14 **SECTION 23.20.(e)** Principals and assistant principals with certification based on
15 academic preparation at the six-year degree level shall be paid a salary supplement of one
16 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a
17 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

18 **SECTION 23.20.(f)** Longevity pay for principals and assistant principals shall be
19 as provided for State employees under the State Personnel Act.

20 **SECTION 23.20.(g)** If a principal is reassigned to a higher job classification
21 because the principal is transferred to a school within a local school administrative unit with a
22 larger number of State-allotted teachers, the principal shall be placed on the salary schedule as
23 if the principal had served the principal's entire career as a principal at the higher job
24 classification.

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

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

33 **SECTION 23.20.(h)** Participants in an approved full-time master's in school
34 administration program shall receive up to a 10-month stipend at the beginning salary of an
35 assistant principal during the internship period of the master's program. For the 2006-2007
36 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the
37 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any
38 fellowship funds received by the intern as a full-time student, including awards of the Principal
39 Fellows Program. The Principal Fellows Program or the school of education where the intern
40 participates in a full-time master's in school administration program shall supply the
41 Department of Public Instruction with certification of eligible full-time interns.

42 **SECTION 23.20.(i)** During the 2009-2010 fiscal year, the placement on the salary
43 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
44 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
45 schedule, whichever is higher.

46 **CENTRAL OFFICE SALARIES**

47 **SECTION 23.21.(a)** The monthly salary ranges that follow apply to assistant
48 superintendents, associate superintendents, directors/coordinators, supervisors, and finance
49 officers for the 2009-2010 fiscal year, beginning July 1, 2009.

1	School Administrator I	\$3,309	\$6,207
2	School Administrator II	\$3,508	\$6,583
3	School Administrator III	\$3,724	\$6,984
4	School Administrator IV	\$3,874	\$7,262
5	School Administrator V	\$4,030	\$7,556
6	School Administrator VI	\$4,275	\$8,013
7	School Administrator VII	\$4,447	\$8,336

8
9 The local board of education shall determine the appropriate category and
10 placement for each assistant superintendent, associate superintendent, director/coordinator,
11 supervisor, or finance officer within the salary ranges and within funds appropriated by the
12 General Assembly for central office administrators and superintendents. The category in which
13 an employee is placed shall be included in the contract of any employee.

14 **SECTION 23.21.(b)** The monthly salary ranges that follow apply to public school
15 superintendents for the 2009-2010 fiscal year, beginning July 1, 2009.

16			
17	Superintendent I	\$4,720	\$8,843
18	Superintendent II	\$5,011	\$9,377
19	Superintendent III	\$5,316	\$9,948
20	Superintendent IV	\$5,642	\$10,552
21	Superintendent V	\$5,988	\$11,196

22
23 The local board of education shall determine the appropriate category and
24 placement for the superintendent based on the average daily membership of the local school
25 administrative unit and within funds appropriated by the General Assembly for central office
26 administrators and superintendents.

27 **SECTION 23.21.(c)** Longevity pay for superintendents, assistant superintendents,
28 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
29 provided for State employees under the State Personnel Act.

30 **SECTION 23.21.(d)** Superintendents, assistant superintendents, associate
31 superintendents, directors/coordinators, supervisors, and finance officers with certification
32 based on academic preparation at the six-year degree level shall receive a salary supplement of
33 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
34 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,
35 directors/coordinators, supervisors, and finance officers with certification based on academic
36 preparation at the doctoral degree level shall receive a salary supplement of two hundred
37 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
38 section.

39 **SECTION 23.21.(e)** The State Board of Education shall not permit local school
40 administrative units to transfer State funds from other funding categories for salaries for public
41 school central office administrators.

42
43 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY**
44 **SCHEDULES**

45 **SECTION 23.22.** Effective July 1, 2009, any permanent personnel employed on
46 July 1, 2009, and paid at the top of the principal and assistant principal salary schedule shall
47 receive a one-time bonus equivalent to two percent (2%).

48 Effective July 1, 2009, any permanent certified personnel employed on July 1, 2009,
49 and paid on the teacher salary schedule with 31+ years of experience shall receive a onetime
50 bonus equivalent to one and eight-tenths percent (1.8%). Personnel defined under
51 G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

1
2 **FREEZE LONGEVITY PAYMENTS/HOLD HARMLESS EMPLOYEES WHO**
3 **RETIRE**

4 **SECTION 23.23.** Teacher and State employee longevity payments shall be frozen
5 for fiscal years 2009-2010 and 2010-2011. Teachers' and State employees' final retirement
6 calculations shall be held harmless from this longevity reduction. For those employees with 26
7 years or more of service, basis for the calculation of retirement pay shall be based upon their
8 salary plus the amount of longevity that would have been a part of their salary computation
9 during the 2009-2011 fiscal biennium.

10
11 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

12 **SECTION 23.24.(a)** Required employer salary-related contributions for employees
13 whose salaries are paid from department, office, institution, or agency receipts shall be paid
14 from the same source as the source of the employees' salary. If an employee's salary is paid in
15 part from the General Fund or Highway Fund and in part from department, office, institution,
16 or agency receipts, required employer salary-related contributions may be paid from the
17 General Fund or Highway Fund only to the extent of the proportionate part paid from the
18 General Fund or Highway Fund in support of the salary of the employee, and the remainder of
19 the employer's requirements shall be paid from the source that supplies the remainder of the
20 employee's salary. The requirements of this section as to source of payment are also applicable
21 to payments on behalf of the employee for hospital-medical benefits, longevity pay,
22 unemployment compensation, accumulated leave, workers' compensation, severance pay,
23 separation allowances, and applicable disability income benefits.

24 **SECTION 23.24.(b)** Effective July 1, 2009, the State's employer contribution rates
25 budgeted for retirement and related benefits as percentage of covered salaries for the 2009-2010
26 fiscal year are (i) eight and fifty-four hundredths percent (8.54%) – Teachers and State
27 Employees; (ii) thirteen and fifty-four hundredths percent (13.54%) – State Law Enforcement
28 Officers; (iii) eleven and eighty-six hundredths percent (11.86%) – University Employees'
29 Optional Retirement System; (iv) eleven and eighty-six hundredths percent (11.86%) –
30 Community College Optional Retirement Program; (v) seventeen and seventy-one hundredths
31 percent (17.71%) – Consolidated Judicial Retirement System; and (vi) four and fifty
32 hundredths percent (4.50%) – Legislative Retirement System. Each of the foregoing
33 contribution rates includes four and fifty hundredths percent (4.50%) for hospital and medical
34 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
35 Community College Optional Retirement Program, and for the University Employees' Optional
36 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income
37 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
38 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
39 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

40 **SECTION 23.24.(c)** Effective July 1, 2010, the State's employer contribution rates
41 budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011
42 fiscal year are (i) eight and fifty-four hundredths percent (8.54%) – Teachers and State
43 Employees; (ii) thirteen and fifty-four hundredths percent (13.54%) – State Law Enforcement
44 Officers; (iii) eleven and eighty-six hundredths percent (11.86%) – University Employees'
45 Optional Retirement System; (iv) eleven and eighty-six hundredths percent (11.86%) –
46 Community College Optional Retirement Program; (v) seventeen and seventy-one hundredths
47 percent (17.71%) – Consolidated Judicial Retirement System; and (vi) four and fifty
48 hundredths percent (4.50%) – Legislative Retirement System. Each of the foregoing
49 contribution rates includes four and fifty hundredths percent (4.50%) for hospital and medical
50 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
51 Community College Optional Retirement Program, and for the University Employees' Optional

1 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income
2 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
3 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
4 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

5 **SECTION 23.24.(d)** General Fund appropriation for 2009-2011 fiscal biennium.
6 Notwithstanding G.S. 143C-5-2, there is appropriated from the General Fund to the Reserve for
7 State Health Plan in the Office of State Budget and Management the sum of one hundred
8 twenty-five million dollars (\$125,000,000) for the 2009-2010 fiscal year and the sum of two
9 hundred twenty-eight million dollars (\$228,000,000) for the 2010-2011 fiscal year. These funds
10 shall be used to cover health care and administrative costs to the Plan in the 2009-2011 fiscal
11 biennium.

12 **SECTION 23.24.(e)** Highway Fund appropriation for 2009-2011 fiscal biennium.
13 Notwithstanding G.S. 143C-5-2, there is appropriated from the Highway Fund to the Reserve
14 for State Health Plan in the Office of State Budget and Management the sum of five million
15 two hundred thousand dollars (\$5,200,000) for the 2009-2010 fiscal year and the sum of ten
16 million six hundred thousand dollars (\$10,600,000) for the 2010-2011 fiscal year. These funds
17 shall be used to cover health care and administrative costs to the Plan in the 2009-2011 fiscal
18 biennium.

19 **SECTION 23.24.(f)** All other agency funds required to fund the premium increase
20 enacted in this act, other than funds appropriated in subsections (d) and (e) of this section, are
21 appropriated for the 2009-2011 fiscal biennium.

22 **SECTION 23.24.(f)** Effective July 1, 2009, the maximum annual employer
23 contributions, payable monthly, by the State for each covered employee or retiree for the
24 2009-2010 fiscal year to the State Health Plan for Teachers and State Employees are: (i)
25 Medicare-eligible employees and retirees – three thousand three hundred ninety-nine dollars
26 (\$3,399); (ii) non-Medicare-eligible employees and retirees – four thousand four hundred
27 sixty-five dollars (\$4,465).

28 **SECTION 23.24.(g)** Effective July 1, 2010, the maximum annual employer
29 contributions, payable monthly, by the State for each covered employee or retiree for the
30 2010-2011 fiscal year to the State Health Plan for Teachers and State Employees are: (i)
31 Medicare-eligible employees and retirees – three thousand six hundred fifty-one dollars
32 (\$3,651) and (ii) non-Medicare-eligible employees and retirees – four thousand seven hundred
33 ninety-five dollars (\$4,795).

34 **BUDGET HEALTH CARE PREMIUMS AT ACTUAL COSTS**

35 **SECTION 23.25.** Funds for employer-paid health care premiums shall be budgeted
36 at actual costs, since some State employees choose not to participate in the State Health Plan
37 for Teachers and State Employees. Budgeting employer health care premiums at actual costs
38 shall not affect any employee who is covered by the Plan.
39

40 **PART XXIV. REVENUE LAW CHANGES**

41 **SMALL BUSINESS TAX RELIEF**

42 **SECTION 24.1.(a)** G.S. 105-130.3 reads as rewritten:

43 **"§ 105-130.3. Corporations.**

44 (a) Tax. – A tax is imposed on the State net income of every C Corporation doing
45 business in this State. An S Corporation is not subject to the tax levied in this section. The tax
46 is a percentage of the taxpayer's State net income computed as follows:

47	Income Years	Beginning Tax
48	In 1997	7.5%
49	In 1998	7.25%

In 1999 7%
 After 1999 6.9%.

(b) Exemption. – Before computing the tax in subsection (a) of this section, a Corporation may subtract from State net income the applicable exemption amount. If the corporation is not required to apportion income to this State, the applicable exemption amount is the amount provided in the table below based on the corporation's State net income. If the corporation is required to apportion income to this State, the applicable exemption amount is the product of the corporation's apportionment fraction determined under G.S. 105-130.4(i) multiplied by the amount provided in the table below based on the corporation's State net income.

<u>State Net Income</u>	<u>Exemption Amount</u>
<u>\$100,000 or less</u>	<u>\$25,000</u>
<u>Over \$100,000 through \$200,000</u>	<u>\$12,500</u>
<u>Over \$200,000</u>	<u>-0-</u>

SECTION 24.1.(b) This section is effective for taxable years beginning on or after January 1, 2010.

CIGARETTE INCREASE (\$1.00 INCREASE)

SECTION 24.2.(a) G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. Tax on cigarettes.

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of ~~one and three fourths cents (1.75¢)~~ six and three-fourths cents (6.75¢) per individual cigarette."

SECTION 24.2.(b) This section becomes effective September 1, 2009.

FOUNDER'S CREDIT

SECTION 24.3.(a) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

- ...
- (23) The amount of any exclusion of gain for qualified businesses allowed under Part 5 of this Article, to the extent included in federal taxable income, less the amount of the credits recaptured pursuant to G.S. 105-163.021; provided however, that a taxpayer is not required to claim this exclusion."

SECTION 24.3.(b) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

- ...
- (19) The amount of the exclusion of gain for qualified businesses allowed under Part 5 of this Article, less the amount of the credits recaptured pursuant to G.S. 105-163.021; provided however, that a taxpayer is not required to claim this exclusion."

SECTION 24.3.(c) Part 5 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following sections:

"§ 105-163.020. Exclusion of gain allowed.

(a) Election. – A taxpayer may elect to exclude from the taxpayer's income taxable under this Article any gain or other taxable income recognized for federal income tax purposes from the sale or exchange of qualified securities.

1 (b) Pass-Through Entity. – Except as provided in subsection (c) of this section, a
2 taxpayer that is an owner of a pass-through entity may exclude from the taxpayer's income
3 taxable under this Article an amount equal to the taxpayer's allocated share of the exclusion for
4 which the pass-through entity is eligible under subsection (a) of this section.

5 (c) Qualified Grantee Pass-Through Entity. – If a taxpayer is an owner of a
6 pass-through entity that was a qualified grantee business at the time of the taxpayer's
7 investment in the pass-through entity, the taxpayer may exclude from the taxpayer's income
8 taxable under this Article an amount equal to the gain or other taxable income recognized as a
9 result of the taxpayer's ownership in the pass-through entity, multiplied by a fraction, the
10 numerator of which is the total amount invested by the pass-through entity in qualified
11 businesses and the denominator of which is the total amount invested by the pass-through
12 entity. For purposes of this subsection, the amounts invested by a pass-through entity shall be
13 the amounts invested immediately before the pass-through entity's sale or exchange producing
14 the gain or taxable income excluded under this subsection.

15 **"§ 105-163.021. Recapture of credit.**

16 If a taxpayer claims an exclusion of gain from income pursuant to G.S. 105-163.020, the
17 income tax of the taxpayer for the tax year for which the exclusion is claimed shall be increased
18 by the amount of all credits previously claimed by the taxpayer pursuant to G.S. 105-163.011
19 with respect to qualified securities that (i) have been sold or exchanged and (ii) the gain from
20 which has been excluded pursuant to G.S. 105-163.020.

21 **"§ 105-163.022. Qualified securities.**

22 (a) Qualified Security. – Except as otherwise provided in this section, any equity
23 security or subordinated debt instrument issued by a qualified business is a qualified security if
24 it satisfies all of the following conditions:

- 25 (1) It is originally issued by the business on or after January 1, 2010.
- 26 (2) As of the date of issuance, the issuing business is a qualified business.
- 27 (3) The security or instrument is acquired by the taxpayer at its original issue in
28 exchange for any tangible or intangible property or benefit to the business,
29 including cash, promissory notes, services performed, contracts for services
30 to be performed, or other equity securities of the business.
- 31 (4) It is held by the taxpayer for a continuous period of more than one year.
- 32 (5) No broker's fee or commission or other similar remuneration is paid or given
33 directly or indirectly for soliciting the purchase.
- 34 (6) If the security or instrument was purchased by a pass-through entity, the
35 entity met the requirements of G.S. 105-163.011(b1) at the time of purchase.

36 (b) Registration. – Securities of a qualified business acquired before the effective date
37 of its registration are not qualified securities. Revocation of the registration of a qualified
38 business pursuant to G.S. 105-163.010A does not affect the exclusion of gain from qualified
39 securities acquired while the registration was in effect if all conditions for registration are
40 satisfied.

41 (c) Effect of Redemptions and Other Distributions. – An equity security or subordinated
42 debt instrument is not a qualified security to the extent the taxpayer purchased it with the
43 proceeds of a redemption, dividend, or distribution made by the business that issued the
44 security or instrument. For the purpose of this subsection, when a business makes a redemption,
45 dividend, or distribution during the four-year period beginning two years before the issuance of
46 securities or instruments to a taxpayer, the taxpayer is considered to have used the proceeds of
47 the redemption, dividend, or distribution toward the purchase of the securities or instruments. A
48 redemption, dividend, or distribution occurs when the business issuing the security or
49 instrument does either of the following:

- 1 (1) Purchases, directly or indirectly, any of its outstanding equity securities or
2 subordinated debt, other than qualified securities, from the taxpayer or a
3 related person.
- 4 (2) Declares a dividend or makes a distribution with respect to any of its
5 outstanding equity securities or subordinated debt, other than qualified
6 securities, to the taxpayer or a related person. This subdivision does not
7 apply, however, to a distribution in connection with one of the following:
- 8 a. The reimbursement to the taxpayer of the reasonable costs of
9 forming, syndicating, managing, and operating the business.
- 10 b. An increase in the taxpayer's taxes, penalties, or interest to the extent
11 the increase is caused by the allocation to the taxpayer of income of
12 the business.

13 The repayment of principal on subordinated debt is a purchase of the debt except to the
14 extent the repayment is repayment of principal due on the subordinated debt at its maturity
15 pursuant to the terms of the subordinated debt instrument. If a transaction is treated under
16 section 304(a) of the Code as a distribution in redemption of the equity securities of a business,
17 that business has, for the purpose of this subsection, purchased an amount of its equity
18 securities equal to the amount treated as such a distribution under section 304(a) of the Code.

19 (d) Exception for Certain Transactions. – The following transactions are not treated as a
20 redemption or distribution for the purposes of subsection (c) of this section:

- 21 (1) Any deemed liquidation of a business pursuant to section 708(b)(1)(A) of
22 the Code by reason of the business becoming a disregarded entity for federal
23 tax purposes, to the extent there is not actual distribution of money or other
24 property to the taxpayer of a related person.
- 25 (2) Any deemed distribution or redemption by reason of a technical termination
26 of a business pursuant to section 708(b)(1)(B) of the Code to the extent there
27 is no actual distribution of money or other property to the taxpayer or a
28 related person.

29 (e) Conversion of Other Securities. – Any equity security or subordinated debt
30 instrument issued by a business and acquired by the taxpayer solely through the conversion of
31 another equity security or subordinated debt instrument that was issued by the business and was
32 a qualified security in the hands of the taxpayer is considered, for the purpose of this section, a
33 qualified security in the hands of the taxpayer and acquired by the taxpayer on the date the
34 taxpayer acquired the converted qualified security.

35 (f) Transfers. – In the case of a transfer by gift, by death, or from a pass-through entity
36 to one of its owners, the transferee is considered, for the purpose of this section, to have
37 acquired the qualified security in the same manner as the transferor and to have held it during
38 any continuous period immediately preceding the transfer during which it was held or treated as
39 held by the transferor.

40 In the case of a transaction described in section 351 or 721 of the Code or a reorganization
41 described in section 368 of the Code, if qualified securities are exchanged for other securities,
42 the other securities are considered, for the purpose of this section, qualified securities acquired
43 on the date the exchanged qualified securities were acquired. In the case of a transaction
44 described in section 351 or 721 of the Code, the newly acquired securities are considered
45 qualified securities, however, only if, immediately after the transaction, the business issuing the
46 securities owns, directly or indirectly, securities representing control, within the meaning of
47 section 368(c) of the Code, of the business whose securities were exchanged.

48 **"§ 105-163.023. Limitations.**

49 (a) Contributions and Exchanges of Property. – In the case of a transaction described in
50 section 351 or 721 of the Code or a reorganization described in section 368 of the Code, if a

1 taxpayer contributes property to or exchanges property with a qualified business, the following
2 rules apply:

- 3 (1) Qualified securities exchanged for property. – Except as otherwise provided
4 in subdivision (3) of this subsection, a taxpayer who transfers property to a
5 business in exchange for qualified securities in the business must, for
6 purposes of determining North Carolina taxable income, recognize gain
7 equal to the amount by which the fair market value of the property exceeded
8 the taxpayer's basis in the property on the date the property was exchanged
9 for the qualified securities. This gain must be recognized for the years for
10 which the taxpayer claims an exclusion of gain under this Part with respect
11 to the disposition of qualified securities received in exchange for the
12 property.
- 13 (2) Contributions to capital. – Except as otherwise provided in subdivision (3) of
14 this subsection, if the adjusted basis of a qualified security is adjusted due to
15 a contribution to capital after the date the qualified security was issued
16 originally, for purposes of determining North Carolina taxable income, the
17 taxpayer must recognize gain equal to the amount by which the fair market
18 value of the contributed property exceeded the taxpayer's basis in the
19 property on the date the property was contributed. This gain must be
20 recognized for the years for which the taxpayer claims an exclusion of gain
21 under this Part with respect to the disposition of the qualified securities.
- 22 (3) Disposition of contributed property. – If a qualified business disposes of
23 property contributed to it, the disposition occurs before the taxpayer who
24 contributed the property claims an exclusion of gain pursuant to this Part
25 with respect to qualified securities affected by the contribution, and the
26 taxpayer recognizes gain from the disposition, then for purposes of
27 subdivisions (1) and (2) of this subsection, the taxpayer's basis in the
28 contributed property is increased by any gain the taxpayer recognized from
29 the disposition.

30 (b) Transactions That Substantially Reduce the Risk of Loss. – If a taxpayer has entered
31 into any transaction that substantially reduces the risk of loss from holding the qualified
32 securities, there is no exclusion of gain under this Part from the sale or exchange of the
33 qualified securities unless the taxpayer entered into the transaction on or after January 1, 2010,
34 and elects to recognize gain as if the qualified securities were sold at fair market value on the
35 date the taxpayer first entered into that transaction. The following are examples of a transaction
36 that substantially reduces the risk of loss from holding the qualified securities:

- 37 (1) The taxpayer or a related person has made a short sale of substantially
38 identical property.
- 39 (2) The taxpayer or a related person has acquired an option to sell substantially
40 identical property at a fixed price."

41 **SECTION 24.3.(d)** This section is effective when it becomes law.

42

43 EARNED INCOME TAX CREDIT

44 **SECTION 24.4.(a)** G.S. 105-151.31(a) reads as rewritten:

45 "(a) Credit. – An individual who claims for the taxable year an earned income tax credit
46 under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to
47 ~~five percent (5%)~~ six and one-half percent (6.5%) of the amount of credit the individual
48 qualified for under section 32 of the Code. A nonresident or part-year resident who claims the
49 credit allowed by this section must reduce the amount of the credit by multiplying it by the
50 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate."

1 **SECTION 24.4.(b)** This section is effective for taxable years beginning on or after
2 January 1, 2010.

3
4 **OTHER TOBACCO PRODUCTS (18% INCREASE)**

5 **SECTION 24.5.** G.S. 105-113.35 reads as rewritten:

6 "**§ 105-113.35. Tax on tobacco products other than cigarettes; use of proceeds.**

7 (a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of
8 ~~ten percent (10%)~~ twenty-eight percent (28%) of the cost price of the products. This tax does
9 not apply to the following:

10 (1) A tobacco product sold outside the State.

11 (2) A tobacco product sold to the federal government.

12 (3) A sample tobacco product distributed without charge.

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

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

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

31 Permission granted under this subsection to a manufacturer to be relieved of paying the tax
32 imposed by this section applies to an integrated wholesale dealer with whom the manufacturer
33 is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with
34 whom it is an affiliate when the manufacturer applies to the Secretary for permission to be
35 relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the
36 manufacturer after the Secretary has given the manufacturer permission to be relieved of
37 paying the tax.

38 If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products
39 other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved
40 of paying the cigarette excise tax, the permission applies to the tax imposed by this section on
41 tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale
42 dealer after receiving permission to be relieved of the cigarette excise tax must notify the
43 Secretary of the permission received under G.S. 105-113.10 when applying for a license as a
44 wholesale dealer.

45 (e) Use. – Of the funds collected pursuant to this section, the Secretary shall deposit an
46 amount equal to ~~three percent (3%)~~ twenty-one percent (21%) of the cost price of the products
47 to the General Fund, and the Secretary shall remit the remainder of the funds to the University
48 Cancer Research Fund established pursuant to G.S. 116-29.1."

49
50 **WATERSENSE SALES TAX HOLIDAY**

51 **SECTION 24.6.** G.S. 105-164.13D reads as rewritten:

1 **"§ 105-164.13D. Sales and use tax holiday for Energy Star and WaterSense qualified**
2 **products.**

3 (a) The taxes imposed by this Article do not apply to the Energy Star and WaterSense
4 qualified products listed in this section if sold between 12:01 A.M. on the first Friday of
5 November and 11:59 P.M. the following Sunday. The qualified products are:

- 6 (1) Clothes washers.
- 7 (2) Freezers and refrigerators.
- 8 (3) Central air conditioners and room air conditioners.
- 9 (4) Air-source heat pumps and geothermal heat pumps.
- 10 (5) Ceiling fans.
- 11 (6) Dehumidifiers.
- 12 (7) Programmable thermostats.
- 13 (8) WaterSense labeled toilets.
- 14 (9) WaterSense labeled faucets.

15 (b) The exemption allowed by this section does not apply to the following:

- 16 (1) The sale of a product for use in a trade or business.
- 17 (2) The rental of a product."

18
19 **PROFESSIONAL BUSINESS FEES**

20 **SECTION 24.7.** G.S. 105-41 reads as rewritten:

21 **"§ 105-41. Attorneys-at-law and other professionals.**

22 (a) Every individual in this State who practices a profession or engages in a business
23 and is included in the list below must obtain from the Secretary a statewide license for the
24 privilege of practicing the profession or engaging in the business. A license required by this
25 section is not transferable to another person. The tax for each license is ~~fifty dollars (\$50.00)~~
26 two hundred dollars (\$200.00).

- 27 (1) An attorney-at-law.
- 28 (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a
29 chiropractist, a dentist, an ophthalmologist, an optician, an optometrist, or
30 another person who practices a professional art of healing.
- 31 (3) A professional engineer, as defined in G.S. 89C-3.
- 32 (4) A registered land surveyor, as defined in G.S. 89C-3.
- 33 (5) An architect.
- 34 (6) A landscape architect.
- 35 (7) A photographer, a canvasser for any photographer, or an agent of a
36 photographer in transmitting photographs to be copied, enlarged, or colored.
- 37 (8) A real estate broker or a real estate salesman, as defined in G.S. 93A-2. A
38 real estate broker or a real estate salesman who is also a real estate appraiser
39 is required to obtain only one license under this section to cover both
40 activities.
- 41 (9) A real estate appraiser, as defined in G.S. 93E-1-4. A real estate appraiser
42 who is also a real estate broker or a real estate salesman is required to obtain
43 only one license under this section to cover both activities.
- 44 (10) A person who solicits or negotiates loans on real estate as agent for another
45 for a commission, brokerage, or other compensation.
- 46 (11) A mortician or embalmer licensed under G.S. 90-210.25.
- 47 (12) A home inspector licensed under Article 9F of Chapter 143 of the General
48 Statutes.

49 (b) The following persons are exempt from the tax:

- 50 (1) A person who is at least 75 years old.

1 (2) A person practicing the professional art of healing for a fee or reward, if the
2 person is an adherent of an established church or religious organization and
3 confines the healing practice to prayer or spiritual means.

4 (3) A blind person engaging in a trade or profession as a sole proprietor. A
5 "blind person" means any person who is totally blind or whose central visual
6 acuity does not exceed 20/200 in the better eye with correcting lenses, or
7 where the widest diameter of visual field subtends an angle no greater than
8 20 degrees. This exemption shall not extend to any sole proprietor who
9 permits more than one person other than the proprietor to work regularly in
10 connection with the trade or profession for remuneration or recompense of
11 any kind, unless the other person in excess of one so remunerated is a blind
12 person.

13 (c) Every person engaged in the public practice of accounting as a principal, or as a
14 manager of the business of public accountant, shall pay for such license ~~fifty dollars (\$50.00)~~
15 two hundred dollars (\$200.00), and in addition shall pay a license of twelve dollars and fifty
16 cents (\$12.50) for each person employed who is engaged in the capacity of supervising or
17 handling the work of auditing, devising or installing systems of accounts."

18 CAREGIVER TAX CREDIT

19 **SECTION 24.8.(a)** Chapter 105 of the General Statutes is amended by adding a
20 new section to read:

21 **"§ 105-151.33. Caregiver tax credit.**

22 (a) Credit. – A taxpayer shall be allowed a credit against the tax imposed by this Part
23 for qualified caregiving expenses in an amount not to exceed ten percent (10%) of the total
24 amount expended for qualified caregiving expenses. In no event shall the amount of the tax
25 credit exceed one hundred fifty dollars (\$150.00) or the taxpayer's income tax liability,
26 whichever is less. No taxpayer shall be entitled to such credit with respect to the same
27 qualified caregiving expenses claimed by another taxpayer.

28 (b) As used in this Code section, the term:

29 (1) Qualified caregiving expenses' means payments by the taxpayer for home
30 health agency services, personal care services, personal care attendant
31 services, homemaker services, adult day care, respite care, or health care
32 equipment and supplies which equipment and supplies have been determined
33 to be medically necessary by a physician which services, care, or equipment
34 and supplies are:

35 a. Provided to the qualifying family member; and

36 b. Purchased or obtained from an organization or individual not related
37 to the taxpayer or the qualifying family member.

38 (2) 'Qualifying family member' means the taxpayer or an individual who is
39 related to the taxpayer by blood, marriage, or adoption and who:

40 a. Is at least 62 years of age; or

41 b. Has been determined to be disabled by the Social Security
42 Administration.

43 (c) A taxpayer shall only be authorized to claim and receive the credit under this Code
44 section if the taxpayer's North Carolina taxable net income does not exceed forty thousand
45 dollars (\$40,000.00) in the taxable year for which the credit under this Code section is claimed.

46 (d) In no event shall the amount of the tax credit exceed the taxpayer's income tax
47 liability. Any unused tax credit shall not be allowed to be carried forward to apply to the
48 taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer
49 against prior years' tax liability.
50

(e) No credit shall be allowed under this Code section with respect to any qualifying caregiving expenses either deducted or subtracted by the taxpayer in arriving at North Carolina taxable net income or with respect to any qualified caregiving expenses for which amounts were excluded from North Carolina taxable net income."

SECTION 24.8.(b) This section becomes effective January 1, 2010, and applies to all taxable years beginning on or after that date.

PART XXV. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 25.1. The appropriations made by the 2009 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 25.2. There is appropriated from the General Fund for the 2009-2010 fiscal year the following amount for capital improvements:

Capital Improvements – General Fund	2009-2010
Department of Environment and Natural Resources	
Water Resources Development Projects	17,600,000
University of North Carolina at Chapel Hill	
Biomedical Research Imaging Center	10,000,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$27,600,000

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 25.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

Name of Project	2009-2010
(1) AIWW Dredging	-
(2) Aquatic Obstruction Removal – Statewide	300,000
(3) Aquatic Plant Control	300,000
(4) B. Everett Jordan Lake Water Supply Storage	200,000
(5) Bald Head Island Beach Renourishment	5,000,000
(6) Beaufort Harbor Maintenance	50,000
(7) Belhaven Harbor Feasibility	-
(8) Bogue Banks Beach Protection	-
(9) Carolina Beach Renourishment	738,000
(10) Carolina Beach South (Kure Beach) Renourishment	842,000
(11) Concord Stream Restoration (Cabarrus County)	350,000
(12) Currituck Sound Environmental Restoration	100,000
(13) Dredging Contingency Fund	-
(14) Emerald Isle Boat Launch	1,000,000
(15) John H. Kerr Dam and Reservoir	-
(16) Little Fork Creek (Rendezvous State Park)	400,000
(17) Manteo (Shallowbag) Bay Maintenance Dredging	-
(18) Morehead City Harbor Maintenance	-
(19) Mountain to the Sea Trail – Water Based Recreation	250,000

1	(20)	N.C. International Terminal Feasibility Study	-
2	(21)	Nags Head Beach Renourishment	2,000,000
3	(22)	Neuse River Basin Restoration	-
4	(23)	Ocean Isle Beach Renourishment	1,211,000
5	(24)	Planning Assistance to Communities	75,000
6	(25)	Princeville Flood Control	100,000
7	(26)	State/Local WRD Grants	1,000,000
8	(27)	Surf City – North Topsail Beach Protection (Pender County)	-
9	(28)	West Onslow Beach (Topsail Beach, Pender County)	75,000
10	(29)	Wilmington Harbor Deepening	1,300,000
11	(30)	Wilmington Harbor Maintenance	-
12	(31)	Wilson Bay Restoration (Onslow County)	250,000
13	(32)	Wrightsville Beach Renourishment	2,059,000
14		TOTALS	\$17,600,000

15
16 **SECTION 25.3.(b)** Where the actual costs are different from the estimated costs
17 under subsection (a) of this section, the Department may adjust the allocations among projects
18 as needed. If any projects funded under subsection (a) of this section are delayed and the
19 budgeted State funds cannot be used during the 2009-2010 fiscal year, or if the projects funded
20 under subsection (a) of this section are accomplished at a lower cost, the Department may use
21 the resulting fund availability to fund any of the following:

- 22 (1) U.S. Army Corps of Engineers project feasibility studies.
- 23 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
24 require State-matching funds in fiscal year 2009-2010.
- 25 (3) State-local water resources development projects.

26 Funds not expended or encumbered for these purposes shall revert to the General Fund at the
27 end of the 2010-2011 fiscal year.

28 **SECTION 25.3.(c)** The Department shall make semiannual reports on the use of
29 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
30 Research Division, and the Office of State Budget and Management. Each report shall include
31 all of the following:

- 32 (1) All projects listed in this section.
- 33 (2) The estimated cost of each project.
- 34 (3) The date that work on each project began or is expected to begin.
- 35 (4) The date that work on each project was completed or is expected to be
36 completed.
- 37 (5) The actual cost of each project.

38 The semiannual reports shall also show those projects advanced in schedule, those
39 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
40 General Fund.

41 42 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

43 **SECTION 25.4.** The appropriations made by the 2009 General Assembly for
44 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of
45 funds shall not be made by any State department, institution, or agency until an allotment has
46 been approved by the Governor as Director of the Budget. The allotment shall be approved
47 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.
48 Prior to the award of construction contracts for projects to be financed in whole or in part with
49 self-liquidating appropriations, the Director of the Budget shall approve the elements of the
50 method of financing of those projects including the source of funds, interest rate, and
51 liquidation period. Provided, however, that if the Director of the Budget approves the method

1 of financing a project, the Director shall report that action to the Joint Legislative Commission
2 on Governmental Operations at its next meeting.

3 Where direct capital improvement appropriations include the purpose of furnishing
4 fixed and movable equipment for any project, those funds for equipment shall not be subject to
5 transfer into construction accounts except as authorized by the Director of the Budget. The
6 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
7 approved by the Director of the Budget prior to commitment of funds.

8 Capital improvement projects authorized by the 2009 General Assembly shall be
9 completed, including fixed and movable equipment and furnishings, within the limits of the
10 amounts of the direct or self liquidating appropriations provided, except as otherwise provided
11 in this act.

12 **BIOMEDICAL RESEARCH IMAGING CENTER**

13 **SECTION 25.5.(a)** The General Assembly finds that continuing the construction
14 of the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill
15 is a vital component of the State's efforts to improve the health and wellness of its citizens. The
16 General Assembly also finds that the construction of the Center will generate significant
17 economic benefits to the State and its people, including more than 7,800 jobs and more than
18 five hundred million dollars (\$500,000,000) in total economic impact.

19 **SECTION 25.5.(b)** In addition to ten million dollars (\$10,000,000) appropriated
20 herein for FY 2009-2010, it is the intention of the General Assembly to authorize a total of two
21 hundred twenty-nine million five hundred thousand dollars (\$229,500,000) of debt financing in
22 subsequent years to complete the Biomedical Research Imaging Center. Debt repayment will
23 be shared, with the General Fund providing seventy percent (70%) of debt service, the
24 University of North Carolina at Chapel Hill providing fifteen percent (15%), and UNC
25 Hospitals providing fifteen percent (15%) of debt service. In order to meet the cash flow
26 requirements for construction of the project, it is anticipated that the following debt issuance
27 schedule will be required:
28

29	Fiscal Year	Amount
30	2010-2011	\$85,000,000
31	2011-2012	\$55,000,000
32	2012-2013	\$85,000,000
33	2013-2014	\$4,500,000

34
35
36 **SECTION 25.5.(c)** In order to maximize savings in the construction market, the
37 General Assembly authorizes UNC-Chapel Hill and UNC Health Care to use interim financing
38 to keep this project on schedule, in an amount not to exceed twenty-five million dollars
39 (\$25,000,000), from funds available to the University of North Carolina at Chapel Hill from
40 gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education
41 costs, or other funds, or any combination of these funds, but not including funds received for
42 tuition or appropriated from the General Fund of the State. This financing will be subject to the
43 approval of the President and the Board of Governors of the University of North Carolina. All
44 interim debt will be reimbursed to the UNC-Chapel Hill and UNC Health Care from the
45 proceeds of permanent indebtedness issued by the State pursuant to the schedule of issuance
46 authorized in this provision and will be accomplished within 60 days of issuance.
47

48 **BIOMEDICAL RESEARCH IMAGING CENTER INCOME FROM PATENTS**

49 **SECTION 25.6.** In light of the significant financial support that the State provides
50 to the Biomedical Research Imaging Center (BRIC), it is fitting for the State to share in any
51 financial opportunities made possible by the State's support. To this end, the State shall receive

1 ten percent (10%) of the gross royalties derived from licensing or income from assignment or
2 sale of any patent resulting from research or other activities conducted at, by or under the
3 auspices of the BRIC, or developed with the aid of the BRIC's facilities, staff, or funds. This
4 provision shall supersede any other provision, statute, policy, rule, or regulation regarding
5 income from patents related to the BRIC.

6 7 **CAPITAL IMPROVEMENT PROJECTS UTILIZING FEDERAL RECOVERY FUNDS**

8 **SECTION 25.7.(a)** Notwithstanding the provisions of Article 8 of Chapter 143C of
9 the General Statutes, the Director of the Budget may authorize the construction of a capital
10 improvement project not specifically authorized by the General Assembly if such project is to
11 be funded by the American Recovery and Reinvestment Act of 2009. The Director of the
12 Budget shall report to the Joint Legislative Commission on Governmental Operations on any
13 capital project authorization made under this subsection no later than 30 days after making the
14 authorization.

15 Prior to authorizing the construction of a capital improvement project with an
16 estimated cost greater than two million dollars (\$2,000,000), the Director shall consult with the
17 Joint Legislative Commission on Governmental Operations. If the Commission does not hold a
18 meeting to hear the consultation within 30 days of receiving the submission of the report, the
19 consultation requirement is satisfied.

20 **SECTION 25.7.(b)** Effective Date – This section is effective when it becomes law.

21 22 **PART XXVI. MISCELLANEOUS PROVISIONS**

23 24 **STATE BUDGET ACT APPLIES**

25 **SECTION 26.1.** The provisions of the State Budget Act, Chapter 143C of the
26 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
27 this act by reference.

28 29 **MOST TEXT APPLIES ONLY TO THE 2009-2011 FISCAL BIENNIUM**

30 **SECTION 26.2.** Except for statutory changes or other provisions that clearly
31 indicate an intention to have effects beyond the 2009-2011 fiscal biennium, the textual
32 provisions of this act apply only to funds appropriated for, and activities occurring during, the
33 2009-2011 fiscal biennium.

34 35 **EFFECT OF HEADINGS**

36 **SECTION 26.3.** The headings to the parts and sections of this act are a
37 convenience to the reader and are for reference only. The headings do not expand, limit, or
38 define the text of this act, except for effective dates referring to a part.

39 40 **SEVERABILITY CLAUSE**

41 **SECTION 26.4.** If any section or provision of this act is declared unconstitutional
42 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
43 than the part so declared to be unconstitutional or invalid.

44 45 **EFFECTIVE DATE**

46 **SECTION 26.5.** Except as otherwise provided, this act becomes effective July 1,
47 2009.