

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 1741
Second Edition Engrossed 5/23/06
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House Committee Substitute Favorable 6/13/06
Fifth Edition Engrossed 6/13/06
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Proposed Conference Committee Substitute S1741-PCCS20535-LTxf-14**

Short Title: Modify Appropriations Act of 2005.

(Public)

Sponsors:

Referred to:

May 22, 2006

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2005, TO INCREASE TEACHER AND STATE EMPLOYEE PAY, TO REDUCE THE SALES TAX RATE AND THE INCOME TAX RATE APPLICABLE TO MOST SMALL BUSINESSES, TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUEL TAX RATE AT ITS CURRENT RATE, TO ENACT OTHER TAX REDUCTIONS, AND TO PROVIDE FOR THE FINANCING OF HIGHER EDUCATION FACILITIES AND PSYCHIATRIC HOSPITALS AND OTHER CAPITAL PROJECTS.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

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

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2006."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

1 **SECTION 2.1.** Appropriations from the General Fund of the State for the
 2 maintenance of the State departments, institutions, and agencies, and for other purposes
 3 as enumerated are adjusted for the fiscal year ending June 30, 2007, according to the
 4 schedule that follows. Amounts set out in brackets are reductions from General Fund
 5 appropriations for the 2006-2007 fiscal year.

6
 7 **Current Operations – General Fund**

FY 2006-2007

8
 9 **EDUCATION**

10	Community Colleges System Office	\$ 64,160,027
11	Department of Public Instruction	139,944,021
12	University of North Carolina – Board of Governors	
13	Appalachian State University	2,189
14	East Carolina University	
15	Academic Affairs	(1,589,622)
16	Health Affairs	0
17	Elizabeth City State University	(28,887)
18	Fayetteville State University	42,675
19	NC Agricultural and Technical University	(223,690)
20	North Carolina Central University	(312)
21	North Carolina School of the Arts	29,159
22	North Carolina State University	
23	Academic Affairs	(3,908,353)
24	Agricultural Extension	65,287
25	Agricultural Research	0
26	University of North Carolina at Asheville	(569,398)
27	University of North Carolina at Chapel Hill	
28	Academic Affairs	(846,370)
29	Health Affairs	(795,501)
30	Area Health Education Centers	0
31	University of North Carolina at Charlotte	(471,439)
32	University of North Carolina at Greensboro	(1,138)
33	University of North Carolina at Pembroke	(299,992)
34	University of North Carolina at Wilmington	(100,910)
35	Western Carolina University	(735,491)
36	Winston-Salem State University	0
37	General Administration	0
38	University Institutional Programs	138,037,440
39	Related Educational Programs	0
40	North Carolina School of Science and Mathematics	52,250
41	UNC Hospitals at Chapel Hill	0
42	Total	\$ 128,657,897

43
 44 **HEALTH AND HUMAN SERVICES**

45	Department of Health and Human Services	
46	Office of the Secretary	\$ (55,163,236)
47	Division of Aging	5,535,886
48	Division of Blind Services/Deaf/HH	75,000
49	Division of Child Development	29,061,908
50	Division of Education Services	996,783
51	Division of Facility Services	200,000

1	Division of Medical Assistance	(107,550,000)
2	Division of Mental Health	60,238,357
3	NC Health Choice	0
4	Division of Public Health	18,135,242
5	Division of Social Services	15,682,564
6	Division of Vocation Rehabilitation	0
7	Total	\$ (32,787,496)
8		
9	NATURAL AND ECONOMIC RESOURCES	
10		
11	Department of Agriculture and Consumer Services	\$ 3,583,562
12		
13	Department of Commerce	
14	Commerce	36,367,483
15	Commerce State-Aid	7,203,138
16	NC Biotechnology Center	2,500,000
17	Rural Economic Development Center	(500,000)
18		
19	Department of Environment and Natural Resources	
20	Environment and Natural Resources	14,851,962
21	Clean Water Management Trust Fund	0
22		
23	Department of Labor	613,894
24		
25	JUSTICE AND PUBLIC SAFETY	
26		
27	Department of Correction	\$ 34,911,704
28		
29	Department of Crime Control and Public Safety	5,954,280
30		
31	Judicial Department	27,091,712
32	Judicial Department – Indigent Defense	6,683,129
33		
34	Department of Justice	4,706,838
35		
36	Department of Juvenile Justice and Delinquency Prevention	3,454,520
37		
38	GENERAL GOVERNMENT	
39		
40	Department of Administration	\$ 3,374,539
41		
42	Office of Administrative Hearings	281,367
43		
44	Department of State Auditor	57,564
45		
46	Office of State Controller	0
47		
48	Department of Cultural Resources	
49	Cultural Resources	5,421,016
50	Roanoke Island Commission	0
51		
52	State Board of Elections	786,620
53		
54	General Assembly	38,284
55		

1	Office of the Governor	
2	Office of the Governor	100,000
3	Office of State Budget and Management	409,938
4	OSBM – Reserve for Special Appropriations	1,353,253
5	Housing Finance Agency	17,437,500
6		
7	Department of Insurance	
8	Insurance	455,846
9	Insurance – Volunteer Safety Workers' Compensation	0
10		
11	Office of Lieutenant Governor	88,433
12		
13	Department of Revenue	1,279,782
14		
15	Department of Secretary of State	468,067
16		
17	Department of State Treasurer	
18	State Treasurer	281,784
19	State Treasurer – Retirement for Fire and Rescue Squad Workers	514,000
20		
21	TRANSPORTATION	
22		
23	Department of Transportation	\$ 0
24		
25	RESERVES, ADJUSTMENTS AND DEBT SERVICE	
26		
27	Reserve for Compensation Increases	\$ 688,494,519
28		
29	Reserve for Teachers' and State Employees' Retirement Rate Adjustment	27,107,200
30		
31	Retirement System Payback	30,000,000
32		
33	Information Technology Fund	42,087,229
34		
35	Reserves for Heating and Cooling Assistance	10,000,000
36		
37	Reserve for Legal Expenses	1,065,710
38		
39	Trust Fund for MH/DD/SAS	14,390,000
40		
41	State Emergency Response Account	20,000,000
42		
43	Pending Ethics Legislation	422,871
44		
45	Debt Service	
46	General Debt Service	(50,000,000)
47	Federal Reimbursement	0
48		
49	TOTAL CURRENT OPERATIONS - GENERAL FUND	\$ 1,263,312,193
50		
51	GENERAL FUND AVAILABILITY STATEMENT	
52	SECTION 2.2.(a) Section 2.2(a) of S.L. 2005-276 is repealed. The General	
53	Fund availability used in adjusting the 2006-2007 budget is shown below:	
54		FY 2006-2007
55	Unappropriated Balance from FY 2005-2006 – S.L. 2005-276	\$ 117,227,875

1	Net Adjustments – S.L. 2005-345	(4,148,833)
2	Net Adjustments – S.L. 2005-435, S.L. 2005-406,	
3	S.L. 2005-376, S.L. 2005-391	(5,826,000)
4	Adjustment From Estimated to Actual 2005-2006	
5	Beginning Unreserved Balance	6,133,946
6	Revised Unappropriated Balance Remaining 2005-2006	\$ 113,386,988
7		
8	Emergency Appropriation for	
9	Department of Correction, S.L. 2006-2	\$ (15,000,000)
10	Projected Reversions from FY 2005-2006	125,000,000
11	Projected Over Collections from FY 2005-2006	1,072,100,000
12	Year End Unreserved Credit Balance before Earmarkings	\$ 1,295,486,988
13		
14	Less: Projected Credit to Savings Reserve	\$ (323,871,747)
15	Less: Credit to Repairs and Renovation Reserve Account	(222,229,189)
16	Revised Year End Unreserved Credit Balance	\$ 749,386,052
17		
18	Revenues Based on Existing Tax Structure	\$ 16,951,416,000
19		
20	Nontax Revenues	
21	Investment Income	\$ 78,700,000
22	Judicial Fees	168,605,271
23	Disproportionate Share	100,000,000
24	Insurance	51,543,813
25	Other Nontax Revenues	202,719,921
26	Highway Trust Fund Transfer	252,663,009
27	Highway Fund Transfer	0
28	Subtotal Nontax Revenues	\$ 854,232,014
29		
30	Total General Fund Availability	\$ 18,555,034,066
31		
32	Adjustments to Availability: 2006 Session	
33	Adjustment to Baseline Revenue Forecast	\$ 698,864,995
34	Reduce Sales Tax from 4.5% to 4.25% – December 1, 2006	(140,100,000)
35	Reduce Top Personal Income Tax Rate from	
36	8.25% to 8.0% - January 1, 2007	(28,600,000)
37	Mill Rehabilitation Income Tax Credit	(2,800,000)
38	529 Savings Plan Income Tax Deduction	(1,000,000)
39	Logging Machinery Sales Tax Exemption	(2,870,000)
40	IRC Update	(5,100,000)
41	Joint Filing Options Under Personal Income Tax	(1,000,000)
42	Railroad Cars Tax Exemption	(400,000)
43	Bill Lee Act Wage Standard – Certain Manufacturers	(800,000)
44	Bill Lee Act Adjustment – Clayton Project	(800,000)
45	Extend Aviation Fuel Tax Credit	(90,000)
46	Extend Real Property Donation Tax Credit	(100,000)
47	Small Business Health Insurance Credit of \$250 – January 1, 2007	(7,200,000)
48	Internet Facility Sales Tax Exemption	(2,250,000)
49	Oyster Tax Credit	(23,000)
50	Gas Cap Reserve	(367,000)
51	Reduce Transfer to Highway Trust Fund	(195,176,407)
52	Adjust Transfer from Insurance Regulatory Fund	455,846
53	Adjust Transfer from Treasurer's Office	281,784
54	Subtotal Adjustments to Availability: 2006 Session	\$ 310,926,218
55		

1 **Revised General Fund Availability for 2006-2007 Fiscal Year** \$ **18,865,960,284**

2
3 **Less: Total General Fund Appropriations**
4 2006-2007 Fiscal Year (18,865,960,284)

5
6 **Unappropriated Balance Remaining** \$ **0**

7
8 **SECTION 2.2.(b)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
9 State Controller shall transfer two hundred twenty-two million two hundred twenty-nine
10 thousand one hundred eighty-nine dollars (\$222,229,189) from the unreserved credit
11 balance to the Repairs and Renovations Reserve Account on June 30, 2006. This
12 subsection becomes effective June 30, 2006.

13 **SECTION 2.2.(c)** Funds transferred under this section to the Repairs and
14 Renovations Reserve Account are appropriated for the 2006-2007 fiscal year to be used
15 in accordance with G.S. 143-15.3A.

16 **SECTION 2.2.(d)** Section 2.2(e) of S.L. 2005-276 is repealed effective June
17 30, 2006.

18 This subsection becomes effective June 30, 2006

19 **SECTION 2.2.(e)** Section 2.2.(f) of S.L. 2005-276 reads as rewritten:

20 "SECTION 2.2.(f) Notwithstanding G.S. 105-187.9(b)(1), the sum to be
21 transferred under that subdivision for the 2005-2006 fiscal year is two hundred fifty
22 million dollars (\$250,000,000) and for the 2006-2007 fiscal year is ~~two hundred fifty~~
23 ~~million dollars (\$250,000,000).~~ fifty-five million dollars (\$55,000,000)."

24 **SECTION 2.2.(f)** Pursuant to G.S. 105-187.9(b)(2), the sum to be
25 transferred under that subdivision for the 2006-2007 fiscal year is two million four
26 hundred eighty-six thousand six hundred two dollars (\$2,486,602).

27 **SECTION 2.2.(g)** There is created in the General Fund a Reserve for the
28 Motor Fuels Tax Ceiling. The sum of twenty-two million nine hundred thirty-three
29 thousand dollars (\$22,933,000) is hereby transferred from the Savings Reserve Account
30 to the Reserve for the Motor Fuels Tax Ceiling for the 2006-2007 fiscal year

31 The State Treasurer shall transfer funds reserved to hold harmless the
32 Highway Fund and the Highway Trust Fund from the Reserve for the Motor Fuels Tax
33 Ceiling only if the variable wholesale component of the motor fuel excise tax rate in
34 G.S. 105-449.80 would, without the imposition of the cap imposed by Section 24.3
35 of this act, exceed twelve and four-tenths cents (12.4¢) a gallon. A transfer required under
36 this subsection must be made on a monthly basis. The amount to be transferred from the
37 Reserve for the Motor Fuels Tax Ceiling to the Highway Fund is the difference between
38 the amount of motor fuel excise tax revenue allocated to the Highway Fund under G.S.
39 105-449.125 for a month and the amount that would have been allocated to it if the
40 variable wholesale component were not capped at twelve and four-tenths cents (12.4¢) a
41 gallon. The total amount transferred to the Highway Fund under this subsection during
42 fiscal year 2006-2007 may not exceed seventeen million six hundred thousand dollars
43 (\$17,600,000). The amount to be transferred from the Reserve for the Motor Fuels Tax
44 Ceiling to the Highway Trust Fund is the difference between the amount of motor fuel
45 excise tax revenue allocated to the Highway Trust Fund under G.S. 105-449.125 for a
46 month and the amount that would have been allocated to it if the variable wholesale
47 component were not capped at twelve and four-tenths cents (12.4¢) a gallon. The total
48 amount transferred to the Highway Trust Fund under this subsection during fiscal year
49 2006-2007 may not exceed five million seven hundred thousand dollars (\$5,700,000).

50 Funds remaining in the Reserve for the Motor Fuels Tax Ceiling on June 30,
51 2007, shall revert to the Savings Reserve Account on June 30, 2007.

52
53 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

54
55 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

1 **SECTION 3.1.** Appropriations from the Highway Fund of the State for
 2 maintenance and operation of the Department of Transportation, and for other purposes
 3 as enumerated, are made for the fiscal year ending June 30, 2007, according to the
 4 schedule that follows. Amounts set out in brackets are reductions from Highway Fund
 5 Appropriations for the 2006-2007 fiscal year.

Current Operations – Highway Fund	2006-2007
Department of Transportation	
Administration	\$ 0
Division of Highways	
Administration	0
Construction	39,439,500
Maintenance	179,731,200
Planning and Research	0
OSHA Program	0
Aeronautics	2,000,000
Ferry Operations	1,000,000
State Aid	
Municipalities	1,439,500
Public Transportation	(14,000,000)
Railroads	3,198,750
Governor's Highway Safety	0
Division of Motor Vehicles	1,886,701
Other State Agencies	11,612,420
Reserves and Transfers	28,523,000
TOTAL	\$254,831,071

HIGHWAY FUND AVAILABILITY STATEMENT

35 **SECTION 3.2.** The Highway Fund availability used in developing the
 36 2005-2007 biennial budget is shown below:

Highway Fund Availability Statement	2006-2007
Beginning Credit Balance	26,600,000
Estimated Revenue	1,767,140,000
Total Highway Fund Availability	\$ 1,793,740,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

48 **SECTION 4.1.** Appropriations from the Highway Trust Fund of the State for
 49 maintenance and operation of the Department of Transportation, and for other purposes
 50 as enumerated, are made for the fiscal year ending June 30, 2007, according to the
 51 schedule that follows. Amounts set out in brackets are reductions from Highway Trust
 52 Fund Appropriations for the 2006-2007 fiscal year.

Current Operations – Highway Trust Fund	2006-2007
--	------------------

1	Intrastate System	100,567,595
2	Urban Loops	40,665,346
3	Aid to Municipalities	10,551,886
4	Secondary Roads	9,271,360
5	Program Administration	(1,189,780)
6	Transfer to General Fund	(195,176,407)

7
8 **GRAND TOTAL CURRENT OPERATIONS**
9 **AND EXPANSION** **(\$35,310,000)**

10
11 **PART VI. GENERAL PROVISIONS**

12
13 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

14 **SECTION 6.1.(a)** Section 6.2 of S.L. 2005-276 is repealed.

15 **SECTION 6.1.(b)** Funds in the amount of five million dollars (\$5,000,000)
16 for the 2006-2007 fiscal year are appropriated to the Contingency and Emergency Fund.
17 Except as provided in subsection (c) of this section, these funds shall be expended only
18 as:

- 19 (1) Required by a court, Industrial Commission, or administrative hearing
20 officer's order;
21 (2) Required to call out the national guard; or
22 (3) Required to respond to an unanticipated disaster such as a fire,
23 hurricane, or tornado, if funds for this purpose are not available in the
24 Reserve for Disaster Expenses as authorized in G.S. 166A.

25 **SECTION 6.1.(c)** Up to five hundred thousand dollars (\$500,000) may be
26 spent for purposes other than those set out in subsection (b) of this section.
27 Notwithstanding any other provision of law authorizing expenditures from the
28 Contingency and Emergency Fund, no more than five hundred thousand dollars
29 (\$500,000) of these funds shall be expended for purposes other than those set out in
30 subsection (b) of this section.

31
32 **AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS**

33 **SECTION 6.2.** Notwithstanding G.S. 143-34.1(a1), a department,
34 institution, or other agency of State government may establish receipt-supported
35 positions authorized in this act upon approval by the Director of the Budget. The
36 Director, if necessary, may establish a receipt-supported position pursuant to this
37 section at an annual salary amount different from the salary amount set out in this act if
38 (i) funds are available from the proposed funding source and (ii) the alternative salary
39 amount remains within the established salary range grade identified for the job
40 classification of the affected receipt-supported position established in this act. The
41 Director shall not change the job classifications or increase the number of
42 receipt-supported positions specified in this act without prior consultation with the Joint
43 Legislative Commission on Governmental Operations.

44
45 **CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR**
46 **INCREASING FEES PURSUANT TO THE EXECUTIVE BUDGET ACT**

47 **SECTION 6.3.** Notwithstanding G.S. 12-3.1, an agency is not required to
48 consult with the Joint Legislative Commission on Governmental Operations prior to
49 establishing or increasing a fee as authorized or anticipated in the Current Operations
50 and Capital Improvements Appropriations Act of 2006, or in the Senate and House of
51 Representatives Appropriations Committee Reports on the Continuation, Expansion and
52 Capital Budgets, that were distributed in the Senate and House of Representatives
53 Appropriations and Base Budget Committees and used to explain this act.

54
55 **NO FEE INCREASES WHICH THE GENERAL ASSEMBLY HAS REJECTED**

1 **SECTION 6.4.** Chapter 143 of the General Statutes is amended by adding a
2 new section to read:

3 **"§ 143-16.7. No fee increases that the General Assembly has rejected.**

4 Notwithstanding any other provision of law, no fee shall be increased if the General
5 Assembly has rejected an increase of that fee for the current fiscal period. For the
6 purpose of this section, the General Assembly has rejected a fee increase when that fee
7 increase is included in a bill which fails a reading, or if the fee increase is included in
8 the version of a bill that passes one house, but the bill is enacted without the fee
9 increase."

10
11 **STATE EMERGENCY RESPONSE ACCOUNT**

12 **SECTION 6.5.(a)** G.S. 166A-6.01(b)(2) reads as rewritten:

13 "(b) Disaster Assistance Programs – Type I Disaster. – In the event that a Type I
14 disaster is proclaimed, the Governor may make State funds available for disaster
15 assistance in the disaster area in the form of individual assistance and public assistance
16 as provided in this subsection.

17 ..
18 (2) Public assistance. – State disaster assistance in the form of public
19 assistance grants may be made available to eligible entities located
20 within the disaster area on the following terms and conditions:

21 a. Eligible entities shall meet the following qualifications:

- 22 1. The eligible entity suffers a minimum of ten thousand
23 dollars (\$10,000) in uninsurable losses;
- 24 2. The eligible entity suffers uninsurable losses in an
25 amount equal to or exceeding ~~one half percent (0.5%)~~
26 one percent (1%) of the annual operating budget;
- 27 3. For a state of disaster proclaimed pursuant to
28 G.S. 166A-6(a) after the deadline established by the
29 Federal Emergency Management Agency pursuant to the
30 Disaster Mitigation Act of 2002, P.L. 106-390, the
31 eligible entity shall have a hazard mitigation plan
32 approved pursuant to the Stafford Act; and
- 33 4. For a state of disaster proclaimed pursuant to
34 G.S. 166A-6(a) after August 1, 2002, the eligible entity
35 shall be participating in the National Flood Insurance
36 Program in order to receive public assistance for
37 flooding damage.

38 b. Eligible entities shall be required to provide non-State matching
39 funds equal to twenty-five percent (25%) of the eligible costs of
40 the public assistance grant.

41 c. An eligible entity that receives a public assistance grant
42 pursuant to this subsection may use the grant for the following
43 purposes only:

- 44 1. Debris clearance.
- 45 2. Emergency protective measures.
- 46 3. Roads and bridges.
- 47 4. Crisis counseling.
- 48 5. Assistance with public transportation needs."

49 **SECTION 6.5.(b)** Article 1 of Chapter 166A of the General Statutes is
50 amended by adding a new section to read:

51 **"§ 166A-6.02. State Emergency Response Account.**

52 (a) Account Established. – There is established a State Emergency Response
53 Account as a reserve in the General Fund. Any funds appropriated to the Account shall
54 remain available for expenditure as provided by this section, unless directed otherwise
55 by the General Assembly.

(b) Purpose of Funds. – The Governor may spend funds from the Account for the following purposes:

- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster as defined by G.S. 166A-6.
- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.

All other types of disaster assistance authorized by G.S. 166A-6 shall continue to be financed by the funds made available under G.S. 166A-6.01.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response Account no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken."

SECTION 6.5.(c) G.S. 166A-4(1) reads as rewritten:

"(1)(1a) Disaster. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause."

SECTION 6.5.(d) G.S. 166A-4 is amended by adding a new subdivision to read:

"(1) Account. – The State Emergency Response Account established in G.S. 166A-6.02."

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATIONS

SECTION 6.6.(a) Section 6.13.(a) of S.L. 2005-276 reads as rewritten:

"SECTION 6.13.(a) The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2005-2006	FY 2006-2007
<u>Estimated Information Technology Fund Balance, June 30, 2006</u>		<u>\$4,212,225</u>
Receipts from Information Technology Enterprise Fee (G.S. 147-33.82)	\$5,000,000	\$5,000,000
Transfer from June 30, 2005, Information Technology Services Internal Service Fund cash balance to support statewide IT initiatives	\$5,000,000	
Appropriation from General Fund	\$24,375,000	\$8,025,000
<u>Appropriation from General Fund</u>	<u>\$24,375,000</u>	<u>\$50,112,229</u>
Total Funds Available	\$34,375,000	\$13,025,000
Total Funds Available	<u>\$34,375,000</u>	<u>\$59,324,454</u>

SECTION 6.6.(b) Additional appropriations are made from the Information Technology Fund established in G.S. 147-33.72H for the fiscal year ending June 30, 2007, in the amount of forty-six million two hundred ninety-nine thousand four hundred fifty-four dollars (\$46,299,454).

AMEND CIVIL PENALTY AND FORFEITURE FUND AVAILABILITY

SECTION 6.9.(a) Section 6.37(a) of S. L. 2005-276 reads as rewritten:

"SECTION 6.37.(a) Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2005-2006	FY 2006-2007
Department of Revenue	\$ 80,000,000	\$ 85,000,000 63,000,000
Department of Transportation	\$ 15,000,000	\$ 15,000,000
Employment Security Commission	\$ 3,000,000	\$ 3,000,000
Department of Insurance	\$ 3,000,000	\$ 3,000,000 1,000,000
University of North Carolina	\$ 5,000,000	\$ 5,000,000 3,500,000
Other Agencies	\$ 14,500,000	\$ 14,500,000 10,000,000
Total Funds Available	\$ 120,500,000	\$ 125,500,000 95,500,000"

SECTION 6.9.(b) Section 6.37(b) of S.L. 2005-276 reads as rewritten:

"SECTION 6.37.(b) Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2007, as follows:

	2005-2006	2006-2007
School Technology Fund	\$ 18,000,000	\$ 18,000,000
State Public School Fund	\$ 102,500,000	\$ 107,500,000 77,500,000
Total Appropriation	\$ 120,500,000	\$ 125,500,000 95,500,000"

SECTION 6.9.(c) G.S. 115C-457.2 reads as rewritten:

"§ 115C-457.2. Remittance of moneys to the Fund.

The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency and that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by a State agency shall be established and approved by the Office of State Budget and Management on an annual basis based upon the computation of actual collection costs by each agency for the prior fiscal year."

FUNDS FOR ENROLLMENT INCREASES

SECTION 6.10. G.S. 143-11 is amended by adding a new subsection to read:

"(a1) In developing the budget, the Director shall consider the information on student enrollment increases submitted to the Director by the State Board of Education, the State Board of Community Colleges, and the Board of Governors of The University of North Carolina. The Director shall include in the continuation budget the amount the Director proposes to fund for the enrollment increases for public schools, community colleges, and the university system."

EDUCATION LOTTERY FUND REVENUE AND APPROPRIATIONS

SECTION 6.15.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred twenty-five million dollars (\$425,000,000) for the 2006-2007 fiscal year.

SECTION 6.15.(b) The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2006-2007 fiscal year are as follows:

Class Size Reduction	\$ 127,864,291
Prekindergarten Program	84,635,709
Public School Building Capital Fund	170,000,000

Scholarships for Needy Students 42,500,000

Total Appropriation \$ 425,000,000

FUNDS FOR INCREASED FUEL COSTS

SECTION 6.16. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Education may use any funds appropriated for State Aid to Local School Administrative units to cover increases in fuel costs.

Notwithstanding G.S. 143-23 or any other provision of law, all other State agencies may transfer funds within their budgets, including funds appropriated for salaries and wages, to cover the increases in fuel costs.

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2006-2007 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (c) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2006-2007 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 31 steps with each step corresponding to one year of teaching experience.

2006-2007 Monthly Salary Schedule
"A" Teachers

Years Of Experience	"A" Teachers	NBPTS Certification
0	\$2,851	N/A
1	\$2,893	N/A
2	\$2,937	N/A
3	\$3,093	\$3,464
4	\$3,233	\$3,621
5	\$3,367	\$3,771
6	\$3,496	\$3,916
7	\$3,600	\$4,032
8	\$3,648	\$4,086
9	\$3,697	\$4,141
10	\$3,747	\$4,197
11	\$3,796	\$4,252
12	\$3,847	\$4,309
13	\$3,898	\$4,366
14	\$3,951	\$4,425
15	\$4,005	\$4,486
16	\$4,060	\$4,547
17	\$4,115	\$4,609
18	\$4,174	\$4,675
19	\$4,232	\$4,740
20	\$4,290	\$4,805

1	21	\$4,352	\$4,874
2	22	\$4,413	\$4,943
3	23	\$4,479	\$5,016
4	24	\$4,543	\$5,088
5	25	\$4,608	\$5,161
6	26	\$4,674	\$5,235
7	27	\$4,742	\$5,311
8	28	\$4,813	\$5,391
9	29	\$4,884	\$5,470
10	30+	\$4,982	\$5,580.

2006-2007 Monthly Salary Schedule
"M" Teachers

16	Years Of Experience	"M" Teachers	NBPTS Certification
17			
18	0	\$3,136	N/A
19	1	\$3,182	N/A
20	2	\$3,231	N/A
21	3	\$3,402	\$3,810
22	4	\$3,556	\$3,983
23	5	\$3,704	\$4,148
24	6	\$3,846	\$4,308
25	7	\$3,960	\$4,435
26	8	\$4,013	\$4,495
27	9	\$4,067	\$4,555
28	10	\$4,122	\$4,617
29	11	\$4,176	\$4,677
30	12	\$4,232	\$4,740
31	13	\$4,288	\$4,803
32	14	\$4,346	\$4,868
33	15	\$4,406	\$4,935
34	16	\$4,466	\$5,002
35	17	\$4,527	\$5,070
36	18	\$4,591	\$5,142
37	19	\$4,655	\$5,214
38	20	\$4,719	\$5,285
39	21	\$4,787	\$5,361
40	22	\$4,854	\$5,436
41	23	\$4,927	\$5,518
42	24	\$4,997	\$5,597
43	25	\$5,069	\$5,677
44	26	\$5,141	\$5,758
45	27	\$5,216	\$5,842
46	28	\$5,294	\$5,929
47	29	\$5,372	\$6,017
48	30+	\$5,480	\$6,138.

51 **SECTION 7.1.(c)** Annual longevity payments for teachers shall be at the
 52 rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State
 53 service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19
 54 years of State service, three and twenty-five hundredths percent (3.25%) of base salary
 55 for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary

1 for 25 or more years of State service. The longevity payment shall be paid in a lump
2 sum once a year.

3 **SECTION 7.1.(d)** Certified public schoolteachers with certification based
4 on academic preparation at the six-year degree level shall receive a salary supplement of
5 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation
6 provided for certified personnel of the public schools who are classified as "M"
7 teachers. Certified public schoolteachers with certification based on academic
8 preparation at the doctoral degree level shall receive a salary supplement of two
9 hundred fifty-three dollars (\$253.00) per month in addition to the compensation
10 provided for certified personnel of the public schools who are classified as "M"
11 teachers.

12 **SECTION 7.1.(e)** The first step of the salary schedule for school
13 psychologists shall be equivalent to Step 5, corresponding to five years of experience,
14 on the salary schedule established in this section for certified personnel of the public
15 schools who are classified as "M" teachers. Certified psychologists shall be placed on
16 the salary schedule at an appropriate step based on their years of experience. Certified
17 psychologists shall receive longevity payments based on years of State service in the
18 same manner as teachers.

19 Certified psychologists with certification based on academic preparation at
20 the six-year degree level shall receive a salary supplement of one hundred twenty-six
21 dollars (\$126.00) per month in addition to the compensation provided for certified
22 psychologists. Certified psychologists with certification based on academic preparation
23 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three
24 dollars (\$253.00) per month in addition to the compensation provided for certified
25 psychologists.

26 **SECTION 7.1.(f)** Speech pathologists who are certified as speech
27 pathologists at the masters degree level and audiologists who are certified as
28 audiologists at the masters degree level and who are employed in the public schools as
29 speech and language specialists and audiologists shall be paid on the school
30 psychologist salary schedule.

31 Speech pathologists and audiologists with certification based on academic
32 preparation at the six-year degree level shall receive a salary supplement of one hundred
33 twenty-six dollars (\$126.00) per month in addition to the compensation provided for
34 speech pathologists and audiologists. Speech pathologists and audiologists with
35 certification based on academic preparation at the doctoral degree level shall receive a
36 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to
37 the compensation provided for speech pathologists and audiologists.

38 **SECTION 7.1.(g)** Certified school nurses who are employed in the public
39 schools as nurses shall be paid on the "M" salary schedule.

40 **SECTION 7.1.(h)** As used in this section, the term "teacher" shall also
41 include instructional support personnel.

42 43 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

44 **SECTION 7.2.(a)** Effective for the 2006-2007 school year, the Director of
45 the Budget shall transfer from the Reserve for Compensation Increases funds necessary
46 to implement the salary schedules for school-based administrators as provided in this
47 section. These funds shall be used for State-paid employees only.

48 **SECTION 7.2.(b)** The base salary schedule for school-based administrators
49 shall apply only to principals and assistant principals. The base salary schedule for the
50 2006-2007 fiscal year, commencing July 1, 2006, is as follows:

51
52 2006-2007
53 Principal and Assistant Principal Salary Schedules
54 Classification
55

1	Yrs. of	Assistant	Prin I	Prin II	Prin III	Prin IV
2	Exp	Principal	(0-10)	(11-21)	(22-32)	(33-43)
3						
4	0-4	\$3,592				
5	5	\$3,741				
6	6	\$3,884				
7	7	\$4,000				
8	8	\$4,053	\$4,053			
9	9	\$4,108	\$4,108			
10	10	\$4,163	\$4,163	\$4,218		
11	11	\$4,218	\$4,218	\$4,274		
12	12	\$4,274	\$4,274	\$4,331	\$4,389	
13	13	\$4,331	\$4,331	\$4,389	\$4,450	\$4,511
14	14	\$4,389	\$4,389	\$4,450	\$4,511	\$4,572
15	15	\$4,450	\$4,450	\$4,511	\$4,572	\$4,637
16	16	\$4,511	\$4,511	\$4,572	\$4,637	\$4,702
17	17	\$4,572	\$4,572	\$4,637	\$4,702	\$4,766
18	18	\$4,637	\$4,637	\$4,702	\$4,766	\$4,835
19	19	\$4,702	\$4,702	\$4,766	\$4,835	\$4,903
20	20	\$4,766	\$4,766	\$4,835	\$4,903	\$4,976
21	21	\$4,835	\$4,835	\$4,903	\$4,976	\$5,047
22	22	\$4,903	\$4,903	\$4,976	\$5,047	\$5,120
23	23	\$4,976	\$4,976	\$5,047	\$5,120	\$5,192
24	24	\$5,047	\$5,047	\$5,120	\$5,192	\$5,268
25	25	\$5,120	\$5,120	\$5,192	\$5,268	\$5,347
26	26	\$5,192	\$5,192	\$5,268	\$5,347	\$5,426
27	27	\$5,268	\$5,268	\$5,347	\$5,426	\$5,535
28	28	\$5,347	\$5,347	\$5,426	\$5,535	\$5,646
29	29	\$5,426	\$5,426	\$5,535	\$5,646	\$5,759
30	30	\$5,535	\$5,535	\$5,646	\$5,759	\$5,874
31	31	\$5,646	\$5,646	\$5,759	\$5,874	\$5,991
32	32		\$5,759	\$5,874	\$5,991	\$6,111
33	33			\$5,991	\$6,111	\$6,233
34	34			\$6,111	\$6,233	\$6,358
35	35				\$6,358	\$6,485
36	36				\$6,485	\$6,615
37	37					\$6,747

Principal and Assistant Principal Salary Schedules
Classification

43	Yrs. of	PrinV	PrinVI	PrinVII	PrinVIII
44	Exp	(44-54)	(55-65)	(66-100)	(101+)
45					
46	0-14	\$4,637			
47	15	\$4,702			
48	16	\$4,766	\$4,835		
49	17	\$4,835	\$4,903	\$5,047	
50	18	\$4,903	\$4,976	\$5,120	\$5,192
51	19	\$4,976	\$5,047	\$5,192	\$5,268
52	20	\$5,047	\$5,120	\$5,268	\$5,347
53	21	\$5,120	\$5,192	\$5,347	\$5,426
54	22	\$5,192	\$5,268	\$5,426	\$5,535
55	23	\$5,268	\$5,347	\$5,535	\$5,646

1	24	\$5,347	\$5,426	\$5,646	\$5,759
2	25	\$5,426	\$5,535	\$5,759	\$5,874
3	26	\$5,535	\$5,646	\$5,874	\$5,991
4	27	\$5,646	\$5,759	\$5,991	\$6,111
5	28	\$5,759	\$5,874	\$6,111	\$6,233
6	29	\$5,874	\$5,991	\$6,233	\$6,358
7	30	\$5,991	\$6,111	\$6,358	\$6,485
8	31	\$6,111	\$6,233	\$6,485	\$6,615
9	32	\$6,233	\$6,358	\$6,615	\$6,747
10	33	\$6,358	\$6,485	\$6,747	\$6,882
11	34	\$6,485	\$6,615	\$6,882	\$7,020
12	35	\$6,615	\$6,747	\$7,020	\$7,160
13	36	\$6,747	\$6,882	\$7,160	\$7,303
14	37	\$6,882	\$7,020	\$7,303	\$7,449
15	38	\$7,020	\$7,160	\$7,449	\$7,598
16	39		\$7,303	\$7,598	\$7,750
17	40		\$7,449	\$7,750	\$7,905
18	41			\$7,905	\$8,063

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

1 **SECTION 7.2.(f)** Longevity pay for principals and assistant principals shall
2 be as provided for State employees under the State Personnel Act.

3 **SECTION 7.2.(g)** If a principal is reassigned to a higher job classification
4 because the principal is transferred to a school within a local school administrative unit
5 with a larger number of State-allotted teachers, the principal shall be placed on the
6 salary schedule as if the principal had served the principal's entire career as a principal
7 at the higher job classification.

8 If a principal is reassigned to a lower job classification because the principal
9 is transferred to a school within a local school administrative unit with a smaller number
10 of State-allotted teachers, the principal shall be placed on the salary schedule as if the
11 principal had served the principal's entire career as a principal at the lower job
12 classification.

13 This subsection applies to all transfers on or after the effective date of this
14 section, except transfers in school systems that have been created, or will be created, by
15 merging two or more school systems. Transfers in these merged systems are exempt
16 from the provisions of this subsection for one calendar year following the date of the
17 merger.

18 **SECTION 7.2.(h)** Participants in an approved full-time masters in school
19 administration program shall receive up to a 10-month stipend at the beginning salary of
20 an assistant principal during the internship period of the masters program. For the
21 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the
22 difference between the beginning salary of an assistant principal plus the cost of tuition,
23 fees, and books and any fellowship funds received by the intern as a full-time student,
24 including awards of the Principal Fellows Program. The Principal Fellows Program or
25 the school of education where the intern participates in a full-time masters in school
26 administration program shall supply the Department of Public Instruction with
27 certification of eligible full-time interns.

28 **SECTION 7.2.(i)** During the 2006-2007 fiscal year, the placement on the
29 salary schedule of an administrator with a one-year provisional assistant principal's
30 certificate shall be at the entry-level salary for an assistant principal or the appropriate
31 step on the teacher salary schedule, whichever is higher.

32 33 **CENTRAL OFFICE SALARIES**

34 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
35 superintendents, associate superintendents, directors/coordinators, supervisors, and
36 finance officers for the 2006-2007 fiscal year, beginning July 1, 2006.

37	School Administrator I	\$3,093	\$5,809
38	School Administrator II	\$3,283	\$6,161
39	School Administrator III	\$3,485	\$6,536
40	School Administrator IV	\$3,625	\$6,796
41	School Administrator V	\$3,771	\$7,071
42	School Administrator VI	\$4,001	\$7,499
43	School Administrator VII	\$4,162	\$7,801

44 The local board of education shall determine the appropriate category and
45 placement for each assistant superintendent, associate superintendent,
46 director/coordinator, supervisor, or finance officer within the salary ranges and within
47 funds appropriated by the General Assembly for central office administrators and
48 superintendents. The category in which an employee is placed shall be included in the
49 contract of any employee hired on or after July 1, 2006.

50 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
51 school superintendents for the 2006-2007 fiscal year, beginning July 1, 2006.

52	Superintendent I	\$4,417	\$8,275
53	Superintendent II	\$4,689	\$8,775
54	Superintendent III	\$4,975	\$9,310
55	Superintendent IV	\$5,280	\$9,875

1 Superintendent V \$5,604 \$10,477

2 The local board of education shall determine the appropriate category and
3 placement for the superintendent based on the average daily membership of the local
4 school administrative unit and within funds appropriated by the General Assembly for
5 central office administrators and superintendents.

6 **SECTION 7.3.(c)** Longevity pay for superintendents, assistant
7 superintendents, associate superintendents, directors/coordinators, supervisors, and
8 finance officers shall be as provided for State employees under the State Personnel Act.

9 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
10 superintendents, directors/coordinators, supervisors, and finance officers with
11 certification based on academic preparation at the six-year degree level shall receive a
12 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
13 the compensation provided pursuant to this section. Superintendents, assistant
14 superintendents, associate superintendents, directors/coordinators, supervisors, and
15 finance officers with certification based on academic preparation at the doctoral degree
16 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
17 month in addition to the compensation provided for under this section.

18 **SECTION 7.3.(e)** The State Board of Education shall not permit local
19 school administrative units to transfer State funds from other funding categories for
20 salaries for public school central office administrators.

21 **SECTION 7.3.(f)** The annual salary increase for all permanent full-time
22 personnel paid from the Central Office Allotment shall be five and one-half percent
23 (5.5%), commencing July 1, 2006. The State Board of Education shall allocate these
24 funds to local school administrative units. The local boards of education shall establish
25 guidelines for providing salary increases to these personnel.

26 27 **NONCERTIFIED PERSONNEL SALARY AND FAIR MINIMUM PAY**

28 **SECTION 7.4.(a)** The annual salary increase for permanent, full-time
29 noncertified public school employees whose salaries are supported from the State's
30 General Fund shall be five and one-half percent (5.5%), commencing July 1, 2006.

31 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
32 for such employees who were employed for all or part of fiscal year 2005-2006 and who
33 continue their employment for fiscal year 2006-2007 by providing an annual salary
34 increase for employees of five and one-half percent (5.5%).

35 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
36 noncertified personnel to support increases of five and one-half percent (5.5%) for the
37 2006-2007 fiscal year.

38 **SECTION 7.4.(d)** Effective July 1, 2006, permanent full-time noncertified
39 public school employees whose salaries are supported from the State's General Fund
40 shall be paid a minimum salary of at least twenty thousand one hundred twelve dollars
41 (\$20,112) per year. Permanent, full-time employees working on a schedule requiring
42 less than 12 months' service per year and permanent part-time employees, whose
43 salaries are supported from the State's General Fund, shall be paid the minimum salary
44 pro rata. The fair minimum wage salary adjustment provided by this section shall be
45 calculated and awarded after any across-the-board salary increases authorized by this
46 act.

47 48 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY** 49 **SCHEDULES**

50 **SECTION 7.5.** Effective July 1, 2006, any permanent personnel employed
51 on July 1, 2006, and paid at the top of the principal and assistant principal salary
52 schedule shall receive a one-time bonus equivalent to two percent (2%). Personnel
53 defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

54 55 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

1 **SECTION 7.6.(a)** The State Board of Education shall use funds
2 appropriated in this act for State Aid to Local School Administrative Units to provide
3 incentive funding for schools that met or exceeded the projected levels of improvement
4 in student performance during the 2005-2006 school year, in accordance with the ABCs
5 of Public Education Program. In accordance with State Board of Education policy:

- 6 (1) Incentive awards in schools that achieve higher than expected
7 improvements may be up to:
8 a. One thousand five hundred dollars (\$1,500) for each teacher
9 and for certified personnel; and
10 b. Five hundred dollars (\$500.00) for each teacher assistant.
11 (2) Incentive awards in schools that meet the expected improvements may
12 be up to:
13 a. Seven hundred fifty dollars (\$750.00) for each teacher and for
14 certified personnel; and
15 b. Three hundred seventy-five dollars (\$375.00) for each teacher
16 assistant.

17 **SECTION 7.6.(b)** Notwithstanding G.S. 143-23, the State Board of
18 Education may use funds appropriated to the Department of Public Instruction and to
19 the State Public School Fund to establish a consolidated, comprehensive program
20 through which to provide assistance to low-performing schools. For this purpose only,
21 the Board may, with approval from the Office of State Budget and Management,
22 transfer funds between personal service and nonpersonal service line items currently
23 supporting positions, related operating costs, and contracts for school improvement
24 teams and for assistance teams. Funds transferred pursuant to this section shall not be
25 used to raise the salary of existing employees.

26 The Board shall report to the Joint Legislative Education Oversight
27 Committee and the Joint Legislative Commission on Governmental Operations by
28 January 15, 2007, on any restructuring of the assistance program pursuant to this
29 section.

30 **SECTION 7.6.(c)** The State Board of Education shall review the incentive
31 award structure described in this section to ensure that extraordinary performance is
32 rewarded. In addition, the Board shall determine whether the relationship between
33 awards for teachers and teacher assistants and the Board's strategic priorities is
34 appropriate. The Board shall provide a preliminary report of its findings and
35 recommendations to the Joint Legislative Education Oversight Committee by December
36 15, 2006.

37 38 **CHILDREN WITH DISABILITIES**

39 **SECTION 7.7.** The State Board of Education shall allocate funds for
40 children with disabilities on the basis of two thousand nine hundred seventy-two dollars
41 and fifty-two cents (\$2,972.52) per child for a maximum of 170,240 children for the
42 2006-2007 school year. Each local school administrative unit shall receive funds for the
43 lesser of (i) all children who are identified as children with disabilities, or (ii) twelve
44 and five-tenths percent (12.5%) of the 2006-2007 allocated average daily membership
45 in the local school administrative unit.

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

50 51 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

52 **SECTION 7.8.** The State Board of Education shall allocate funds for
53 academically or intellectually gifted children on the basis of nine hundred sixty-one
54 dollars and sixty cents (\$961.60) per child. A local school administrative unit shall
55 receive funds for a maximum of four percent (4%) of its 2006-2007 allocated average

1 daily membership, regardless of the number of children identified as academically or
2 intellectually gifted in the unit. The State Board shall allocate funds for no more than
3 57,419 children for the 2006-2007 school year.

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

8 9 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

10 **SECTION 7.10.** Section 7.8 of S.L. 2005-276 is amended by adding a new
11 subsection to read:

12 "SECTION 7.8.(c) Beginning in the 2006-2007 fiscal year, funds appropriated to a
13 local education agency (LEA) for disadvantaged student supplemental funding (DSSF)
14 shall be allotted based on: (i) the LEA's eligible DSSF population and (ii) the difference
15 between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- 16 (1) For counties with wealth greater than ninety percent (90%) of the
17 statewide average, a ratio of 1:20.5;
18 (2) For counties with wealth not less than eighty percent (80%) and not
19 greater than ninety percent (90%) of the statewide average, a ratio of
20 1:20;
21 (3) For counties with wealth less than eighty percent (80%) of the
22 statewide average, a ratio of 1:19.5; and
23 (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These
24 LEAs shall receive no less than the DSSF amount allotted in
25 2005-2006.

26 For the purpose of this subsection, wealth shall be calculated under the low-wealth
27 supplemental formula."

28 29 **LEARN AND EARN HIGH SCHOOLS**

30 **SECTION 7.11.** Section 7.32 of S.L. 2005-276 is amended by adding the
31 following new subsections:

32 "SECTION 7.32.(e) Enrollment fees and tuition for The University of North
33 Carolina courses in which Learn and Earn students are enrolled are allowable uses of
34 these funds. Tuition costs may include laboratory fees assessed to all students enrolled
35 in the course or a similar course.

36 SECTION 7.32.(f) Textbooks required for college courses in which Learn and Earn
37 students are enrolled may be purchased with these funds.

38 SECTION 7.32.(g) Payment of fees from these funds by local school
39 administrative units to partnering community colleges and universities are restricted to
40 technology or course fees. Funds appropriated in this act shall not be used to support the
41 cost of athletic or other student activity or campus fees not required by enrollment in a
42 specific course.

43 SECTION 7.32.(h) The State Board of Education shall allot funds for university
44 enrollment, tuition and fees, and textbooks on the basis of and after verification of the
45 credit hour enrollment of Learn and Earn students in university courses. The State
46 Board of Education shall allot funds for community college fees and textbooks on the
47 basis of and after verification of the credit hour enrollment of Learn and Earn students
48 in community college courses."

49 50 **NC WISE POSITIONS**

51 **SECTION 7.12.(a)** Notwithstanding G.S. 143-23, the State Board of
52 Education may, in consultation with the Office of Information Technology Services, use
53 funds appropriated in this act for NC WISE to create a maximum of 20 positions and
54 incur expenditures necessary to transfer the maintenance and administration of the NC
55 WISE system from the vendor to the Department of Public Instruction.

1 **SECTION 7.12.(b)** The Department of Public Instruction shall report on a
2 quarterly basis to the Joint Legislative Education Oversight Committee on the
3 implementation of the NC WISE project.
4

5 **LITERACY COACHES**

6 **SECTION 7.13.** Funds are appropriated in this act to support the selection
7 and hiring of 100 literacy coaches. The State Board of Education shall allocate these
8 positions to the 100 schools with the lowest average scores on the eighth grade
9 end-of-grade reading test over the most recent three years for which data is available.
10

11 **EXPAND LEA ACCESS TO EDUCATION VALUE ADDED ASSESSMENT** 12 **SYSTEM (EVAAS)**

13 **SECTION 7.14.(a)** The State Board of Education shall identify local school
14 administrative units to receive funds for purchasing licenses to EVAAS diagnostic
15 software based on criteria that shall include (i) identified need, (ii) readiness, and (iii)
16 county wealth, as defined in the Low-Wealth Supplemental Funding Formula. The
17 Board shall identify as many units as possible within funds available for this purpose.

18 **SECTION 7.14.(b)** Funds appropriated for EVAAS in the 2005-2006 fiscal
19 year shall not revert, but shall be carried forward to the 2006-2007 fiscal year for
20 expenditures for training related to expanding local school administrative units' access
21 to the EVAAS tool. Any such funds not spent by June 30, 2007, shall revert to the
22 General Fund.

23 **SECTION 7.14.(c)** This section becomes effective June 30, 2006.
24

25 **CLARIFY DEFINITION: PUBLIC SCHOOL CAPITAL FUNDS**

26 **SECTION 7.15.** G.S. 115C-546.2(d)(2)a. reads as rewritten:

27 "a. "Effective county tax rate" means the actual county tax rate
28 rate, including any countywide supplemental taxes levied for
29 the benefit of public schools, multiplied by a three-year
30 weighted average of the most recent annual sales assessment
31 ratio studies."
32

33 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOL**

34 **SECTION 7.16.(a)** The North Carolina Virtual Public School (NCVPS)
35 program shall report to the State Board of Education and shall maintain an
36 administrative office at the Department of Public Instruction

37 **SECTION 7.16.(b)** The Director of NCVPS will ensure that course quality
38 standards are established and met and that all e-learning opportunities offered by
39 State-funded entities to public school students are consolidated under the NC Virtual
40 Public School Program, eliminating course duplication. The Director shall report on the
41 proposed consolidation and operating plan for 2007-2008 to the Joint Legislative
42 Education Oversight Committee, the Office of State Budget and Management, and the
43 Fiscal Research Division no later than January 15, 2007. Consolidation will be
44 completed by June 30, 2007. Notwithstanding G.S 143-23, the State Board of Education
45 may move funds within the budget to implement the consolidation.

46 **SECTION 7.16.(c)** Subsequent to course consolidation, the Director will
47 prioritize e-learning course offerings for students residing in rural and low-wealth
48 county LEAs, in order to expand available instructional opportunities. First-available
49 e-learning instructional opportunities should include courses required as part of the
50 standard course of study for high school graduation and AP offerings not otherwise
51 available.

52 **SECTION 7.16.(d)** The State Board of Education shall develop an allotment
53 formula for funding e-learning, effective in the 2007-2008 fiscal year. In developing the
54 formula, the Board shall consider, at a minimum, the following:

- 1 (1) The number of students in average daily membership (ADM) projected
- 2 to enroll in e-learning,
- 3 (2) The projected cost of fees for e-learning courses,
- 4 (3) The extent to which projected enrollment in e-learning courses affects
- 5 funding required for other allotments that are based on ADM.

6 **SECTION 7.16.(e)** Any funds appropriated in this act for the NCVPS
7 program that are not expended in fiscal year 2006-2007 shall be carried forward for
8 expenditure in fiscal year 2007-2008. Any such funds that remain unexpended on June
9 30, 2008, shall revert to the General Fund.

10 11 **DISTANCE EDUCATION**

12 **SECTION 7.17.** Notwithstanding G.S. 143-23, the State Board of Education
13 may use monies from the State Public School Fund in the 2006-2007 fiscal year only to
14 pay for the additional costs associated with an increased number of registration fees for
15 students enrolling in Distance Education courses.

16 17 **TRANSFER MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL 18 READINESS TO THE DEPARTMENT OF PUBLIC INSTRUCTION**

19 **SECTION 7.18.(a)** The More at Four program and the Office of School
20 Readiness are transferred from the Office of the Governor to the Department of Public
21 Instruction effective July 1, 2006. This transfer shall have all of the elements of a Type
22 I transfer, as defined in G.S. 143A-6. The Office of School Readiness will provide
23 oversight to the More at Four program and other related early childhood and
24 prekindergarten education experiences. An Executive Director for the Office of School
25 Readiness will be appointed by the State Board of Education.

26 **SECTION 7.18.(b)** Section 10.67(a) of S.L. 2005-276 is repealed.

27 **SECTION 7.18.(c)** Section 10.67(b) of S.L. 2005-276 reads as rewritten:

28 **"SECTION 10.67.(b)** ~~The Department of Health and Human Services and the~~
29 ~~Department of Public Instruction, with guidance from the Task Force,~~ shall continue the
30 implementation of the "More at Four" prekindergarten program for at-risk
31 four-year-olds who are at risk of failure in kindergarten. The program is available
32 statewide to all counties that choose to participate, including underserved areas. The
33 goal of the program is to provide quality prekindergarten services to a greater number of
34 at-risk children in order to enhance kindergarten readiness for these children. The
35 program shall be consistent with standards and assessments established jointly by the
36 Department of Health and Human Services and the Department of Public Instruction.
37 The program shall include:

- 38 (1) A process and system for identifying children at risk of academic
- 39 failure.
- 40 (2) A process and system for identifying children who are not being
- 41 served ~~first priority~~ in formal early education programs, such as child
- 42 care, public or private preschools, Head Start, Early Head Start, early
- 43 intervention programs, or other such programs, who demonstrate
- 44 educational needs, and who are eligible to enter kindergarten the next
- 45 school year, as well as children who are underserved.
- 46 (3) A curriculum or several curricula that are research-based and/or built
- 47 on sound instructional theory recommended by the Task Force. ~~The~~
48 ~~Task Force will identify and approve appropriate research-based~~
49 ~~curricula.~~ These curricula shall: (i) focus primarily on oral language
50 and emergent literacy; (ii) engage children through key experiences
51 and provide background knowledge requisite for formal learning and
52 successful reading in the early elementary years; (iii) involve active
53 learning; (iv) promote measurable kindergarten language-readiness
54 skills that focus on emergent literacy and mathematical skills; and (v)

1 develop skills that will prepare children emotionally and socially for
2 kindergarten.

- 3 (4) An emphasis on ongoing family involvement with the prekindergarten
4 program.
5 (5) Evaluation of child progress through a preassessment and
6 ~~postassessment of children in the~~ statewide evaluation, as well as
7 ongoing assessment of the children by teachers.
8 (6) Guidelines for a system to reimburse local school boards and systems,
9 private child care providers, and other entities willing to establish and
10 provide prekindergarten programs to serve at-risk children.
11 (7) A system built upon existing local school boards and systems, private
12 child care providers, and other entities that demonstrate the ability to
13 establish or expand prekindergarten capacity.
14 (8) A quality-control system. Participating providers shall comply with
15 standards and guidelines as established by the Department of Health
16 and Human Services and the Department of Public Instruction, ~~and the~~
17 ~~Task Force~~. The Department may use the child care rating system to
18 assist in determining program participation.
19 (9) Standards for minimum teacher qualifications. A portion of the
20 classroom sites initially funded shall have at least one teacher who is
21 certified or provisionally certified in birth-to-kindergarten education.
22 (10) A local contribution. Programs must demonstrate that they are
23 accessing resources other than "More at Four".
24 (11) A system of accountability.
25 (12) Consideration of the reallocation of existing funds. In order to
26 maximize current funding and resources, the Department of Health and
27 Human Services and the Department of Public Instruction, ~~and the~~
28 ~~Task Force~~ shall consider the reallocation of existing funds from State
29 and local programs that provide prekindergarten-related care and
30 services."

31 **SECTION 7.18.(d)** Section 10.67(c) of S.L. 2005-276 reads as rewritten:

32 **"SECTION 10.67.(c)** ~~The Department of Health and Human Services~~ Department
33 of Public Instruction shall implement a plan to expand plan for expansion of the "More
34 at Four" program standards within existing resources to include four- and five-star-rated
35 centers and schools serving four-year-olds and develop guidelines for these programs.
36 ~~The Department shall analyze guidelines for use of the "More at Four" funds, State~~
37 ~~subsidy funds, and Smart Start subsidy funds and devise a complementary plan for~~
38 ~~administration of funds for all four year old classrooms. The "NC Prekindergarten~~
39 Program Standards" initiative shall recognize four- and five-star-rated centers that
40 choose to apply and meet equivalent "More at Four" program standards as high quality
41 pre-k classrooms. Classrooms meeting these standards shall, have at a minimum,
42 receive curricula and access to training and workshops for "More at Four" programs.
43 Whenever expansion slots are available, these classrooms shall have first priority to
44 receive them and be considered along with other "More at Four" programs for
45 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
46 from more than one source for the same purpose or activity during the same funding
47 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
48 and T.E.A.C.H. Health Insurance programs for individual recipients.

49 The "More at Four" program shall review the number of slots filled by
50 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.
51 The shifting of slots shall occur through ~~December 30, 2005,~~ January 31 of each year,
52 at which time any remaining funds for slots unfilled shall be used to meet the needs of
53 the waiting list for subsidized child care."

54 **SECTION 7.18.(e)** Section 10.67(d) of S.L. 2005-276 reads as rewritten:

1 "**SECTION 10.67.(d)** ~~The Department of Health and Human Services, the~~
2 ~~Department of Public Instruction, and the Task Force shall submit a report by February~~
3 ~~1, 2006~~ The Department of Public Instruction shall submit a report by February 1, 2007,
4 to the Joint Legislative Commission on Governmental Operations, the Joint Legislative
5 Education Oversight Committee, the Senate Appropriations Committee on ~~Health and~~
6 ~~Human Services Education~~, the House of Representatives Appropriations Subcommittee
7 on ~~Health and Human Services Education~~, and the Fiscal Research Division. This final
8 report shall include the following:

9 (1) The number of children participating in the program.

10 (2) The number of children participating in the program who have never
11 been served in other early education programs, such as child care,
12 public or private preschool, Head Start, Early Head Start, or early
13 intervention programs.

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

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

18 ~~(5) Activities involving Child Find in counties.~~

19 ~~(6)~~(5) A comprehensive cost analysis of the program, including the cost per
20 child served by the program.

21 ~~(7)~~(6) The plan for expansion of "More at Four" through existing resources
22 status of the NC Prekindergarten initiatives as outlined in this
23 section."

24 **SECTION 7.18.(f)** Section 10.67(e) of S.L. 2005-276 reads as rewritten:

25 "**SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the "More
26 at Four" program shall establish income eligibility requirements for the program not to
27 exceed seventy-five percent (75%) of the State median income ~~to make the program~~
28 ~~consistent with the child care subsidy requirements.~~ Up to twenty percent (20%)
29 of children enrolled may have family incomes in excess of seventy-five percent (75%) of
30 median income if they have other designated risk factors."

31 **SECTION 7.18.(g)** Section 10.67(f) of S.L. 2005-276 reads as rewritten:

32 "**SECTION 10.67.(f)** The "More at Four" program funding shall not supplant any
33 funding for classrooms serving four-year-olds as of the ~~2003-2004~~ 2005-2006 fiscal
34 year. Support of existing four-year-old classrooms with "More at Four" program
35 funding shall be permitted when current funding is eliminated, reduced or redirected as
36 required to meet other specified federal or State educational mandates."

37 **SECTION 7.18.(h)** Section 10.67(g) of S.L. 2005-276 is repealed.

38 **SECTION 7.18.(i)** G.S. 115C-242(1) reads as rewritten:

39 "(1) A school bus may be used for the transportation of pupils enrolled in
40 and employees in the operation of the school to which such bus is
41 assigned by the superintendent of the local school administrative unit.
42 Except as otherwise herein provided, such transportation shall be
43 limited to transportation to and from such school for the regularly
44 organized school day, and from and to the points designated by the
45 principal of the school to which such bus is assigned, for the receiving
46 and discharging of passengers. No pupil or employee shall be so
47 transported upon any bus other than the bus to which such pupil or
48 employee has been assigned pursuant to the provisions of this Article:
49 Provided, that children enrolled in a Headstart program or any More at
50 Four program which is housed in a building owned and operated by a
51 local school administrative unit where school is being conducted may
52 be transported on public school buses, and any additional costs
53 associated with such so long as the contractual arrangements shall be
54 incurred by the benefitting Head Start or More at Four program ~~made~~
55 ~~cause no extra expense to the State:~~ Provided further, that children

1 with special needs may be transported to and from the nearest
2 appropriate private school having a special education program
3 approved by the State Board of Education if the children to be
4 transported are or have been placed in that program by a local school
5 administrative unit as a result of the State or the unit's duty to provide
6 such children with a free appropriate public education."
7

8 ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM

9 **SECTION 7.19.(a)** G.S. 115C-363.23A(f) reads as rewritten:

10 "(f) All funds appropriated to or otherwise received by the Teaching Fellows
11 Program for scholarships, all funds received as repayment of scholarship loans, and all
12 interest earned on these funds, shall be placed in a revolving fund. This revolving fund
13 shall be used for scholarship loans granted under the Teaching Fellows Program. With
14 the prior approval of the General Assembly in the Current Operations Appropriations
15 Act, the revolving fund may also be used for campus and summer program support, and
16 costs related to disbursement of awards and collection of loan repayments.

17 ~~The With the prior approval of the General Assembly in the Current Operations~~
18 ~~Appropriations Act, the revolving fund may also be used by the Public School Forum,~~
19 ~~as administrator for the Teaching Fellows Program, may use up to one hundred fifty~~
20 ~~thousand dollars (\$150,000) annually from the fund balance for costs associated with~~
21 ~~administration of the Teaching Fellows Program."~~

22 **SECTION 7.19.(b)** The Public School Forum, as administrator for the
23 Teaching Fellows Program, may use up to eight hundred ten thousand dollars
24 (\$810,000) for the 2006-2007 fiscal year from the balance in the revolving fund
25 established in G.S. 115C-363.23A(f) for costs associated with administration of the
26 Teaching Fellows Program. The funding provided for administration of the Teaching
27 Fellows Program in this subsection shall be used to meet current administrative
28 expenses of the Program, expand minority recruitment initiatives, and expand the
29 Program to up to four additional campuses using a merit-based selection process
30 developed by the North Carolina Teaching Fellows Commission.

31 The Teaching Fellows Program shall report to the Joint Legislative Education
32 Oversight Committee by March 15, 2007, on:

- 33 (1) Actual expenditures for the 2005-2006 fiscal year and budgeted
34 expenditures for the 2006-2007 fiscal year for administration of the
35 Program;
36 (2) Initiatives to recruit minorities to the Program; and
37 (3) The additional campuses selected to participate in the Program and the
38 selection process.
39

40 REFUND OF LOCAL SALES AND USE TAXES TO A LOCAL SCHOOL 41 ADMINISTRATIVE UNIT

42 **SECTION 7.20.(a)** G.S. 105-467(b) reads as rewritten:

43 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained
44 in G.S. 105-164.13, the State sales and use tax holiday contained in G.S. 105-164.13C,
45 and the State refund provisions contained in G.S. 105-164.14 apply to the local sales
46 and use tax authorized to be levied and imposed under this Article. Except as provided
47 in this subsection, a taxing county may not allow an exemption, exclusion, or refund
48 that is not allowed under the State sales and use tax. A local school administrative unit
49 and a joint agency created by interlocal agreement among local school administrative
50 units pursuant to G.S. 160A-462 to jointly purchase food service-related materials,
51 supplies, and equipment on their behalf is allowed an annual refund of sales and use
52 taxes paid by it under this Article on direct purchases of tangible personal property and
53 services, other than electricity and telecommunications service. Sales and use tax
54 liability indirectly incurred by the entity on building materials, supplies, fixtures, and
55 equipment that become a part of or annexed to any building or structure that is owned or

1 leased by the entity and is being erected, altered, or repaired for use by the entity is
2 considered a sales or use tax liability incurred on direct purchases by the entity for the
3 purpose of this subsection. A request for a refund shall be in writing and shall include
4 any information and documentation required by the Secretary. A request for a refund is
5 due within six months after the end of the entity's fiscal year. Refunds applied for more
6 than three years after the due date are barred."

7 **SECTION 7.20.(b)** Section 7.51(c) of S.L. 2005-276, as amended by
8 Section 7 of S.L. 2005-345, reads as rewritten:

9 "SECTION 7.51.(c) Subsection (b) of this section becomes effective July 1, 2006.
10 Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the
11 amount transferred to the State Public School Fund each quarter shall equal one-fourth
12 of the amount refunded under G.S. 105-164.14(c)(2b) and (2c) during the 2005-2006
13 fiscal year for State sales and use taxes only plus or minus the percentage of that amount
14 by which the total collection of State sales and use tax increased or decreased during the
15 preceding fiscal year. The remainder of this section becomes effective July 1, 2005, and
16 applies to sales made on or after that date."

17 **SECTION 7.20.(c)** This section becomes effective July 1, 2005, and applies
18 to sales made on or after that date.

19 20 **SALARY SUPPLEMENT FOR MATH AND SCIENCE TEACHERS PILOT** 21 **PROGRAM**

22 **SECTION 7.21.(a)** Funds in the amount of five hundred fifteen thousand
23 one hundred fifteen dollars (\$515,115) are appropriated in this act for a pilot program
24 providing for a salary supplement for newly hired teachers (as defined by the State
25 Board of Education) of mathematics or science at the middle or high school level. The
26 State Board of Education shall develop the pilot program and select three local school
27 administrative units to participate in the pilot program. In selecting the units, the Board
28 shall target low-performing local school administrative units and take geographical
29 diversity into account. Selected local school administrative units shall use salary
30 supplement funds for newly hired teachers at low-performing schools.

31 Each of the pilot units shall receive funds to provide for a salary supplement
32 of fifteen thousand dollars (\$15,000) to up to 10 newly hired teachers at the middle or
33 high school level who have nonprovisional certification in and are teaching in one or
34 more of the following areas of teacher certification:

- 35 (1) Middle grades mathematics,
- 36 (2) Middle grades science,
- 37 (3) Mathematics (9-12),
- 38 (4) Science (9-12),
- 39 (5) Earth science (9-12),
- 40 (6) Biology (9-12),
- 41 (7) Physics (9-12), and
- 42 (8) Chemistry (9-12).

43 **SECTION 7.21.(b)** In accordance with G.S. 115C-325 and by way of
44 clarification, it shall not constitute a demotion as that term is defined in
45 G.S. 115C-325(a)(4) if:

- 46 (1) A teacher who receives a salary supplement pursuant to subsection (a)
47 of this section is reassigned to a school at which there is no such salary
48 supplement;
- 49 (2) A teacher who receives a salary supplement pursuant to subsection (a)
50 of this section moves to a different local school administrative unit; or
- 51 (3) A teacher receives a salary supplement pursuant to subsection (a) of
52 this section and the salary supplement is subsequently discontinued or
53 reduced.

54 **SECTION 7.21.(c)** Funds not needed to pay for salary supplements shall
55 revert to the General Fund.

1 **SECTION 7.21.(d)** The State Board of Education shall report to the Joint
 2 Legislative Education Oversight Committee on the design of the pilot program prior to
 3 implementation. The State Board of Education shall report to the Joint Legislative
 4 Education Oversight Committee on the implementation of the pilot program by January
 5 15, 2007.

6
 7 **STUDY THE COMPENSATION OF SCHOOL PSYCHOLOGISTS WITH**
 8 **NATIONAL CERTIFICATION**

9 **SECTION 7.22.** The State Board of Education shall study the adequacy of
 10 the compensation of school psychologists who are designated as Nationally Certified
 11 School Psychologists by the National School Psychology Certification Board. In the
 12 course of the study, the State Board of Education shall consider (i) whether these school
 13 psychologists should be compensated at the same level as teachers who are certified by
 14 the National Board for Professional Teaching Standards (NBPTS) and (ii) the cost of
 15 compensating them at that level.

16 The State Board of Education shall report the results of its study to the Joint
 17 Legislative Education Oversight Committee prior to January 15, 2007.

18
 19 **PART VIII. COMMUNITY COLLEGES**

20
 21 **SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL**
 22 **STAFF**

23 **SECTION 8.1.(a)** Section 8.3 of S.L. 2005-276 is amended by adding a new
 24 subsection to read:

25 "SECTION 8.3.(b1) For the 2006-2007 school year, the minimum salaries for
 26 nine-month, full-time, curriculum community college faculty shall be as follows:

<u>Education Level</u>	<u>Minimum Salary</u> <u>2006-2007</u>
<u>Vocational Diploma/Certificate or Less</u>	<u>\$31,728</u>
<u>Associate Degree or Equivalent</u>	<u>\$32,195</u>
<u>Bachelors Degree</u>	<u>\$34,220</u>
<u>Masters Degree or Education Specialist</u>	<u>\$36,016</u>
<u>Doctoral Degree</u>	<u>\$38,607</u>

34 No full-time faculty member shall earn less than the minimum salary for his or her
 35 education level.

36 The pro rata hourly rate of the minimum salary for each education level shall be
 37 used to determine the minimum salary for part-time faculty members."

38 **SECTION 8.1.(b)** Section 8.3(g) of S.L. 2005-276 reads as rewritten:

39 "SECTION 8.3.(g) Funds For the 2005-2006 fiscal year, funds appropriated in this
 40 act for salary increases shall be used to increase faculty and professional staff salaries
 41 by an average of two percent (2%). These increases are in addition to other salary
 42 increases provided for in this act and shall be calculated on the average salaries prior to
 43 the issuance of the compensation increase. For the 2006-2007 fiscal year, funds
 44 appropriated in this act for salary increases shall be used to increase faculty and
 45 professional staff annual salaries by six percent (6%). Colleges may provide additional
 46 increases from funds available.

47 The State Board of Community Colleges shall adopt rules to ensure that these funds
 48 are used only to move faculty and professional staff to the respective national averages.
 49 These funds shall not be transferred by the State Board or used for any other budget
 50 purpose by the community colleges."

51
 52 **USE OF FUNDS APPROPRIATED FOR ISOTHERMAL COMMUNITY**
 53 **COLLEGE**

1 **SECTION 8.2.** Funds appropriated for composite testing at Isothermal
2 Community College and not used for that purpose may be used to purchase equipment
3 for the Lifelong Learning Center located at Isothermal Community College.
4

5 **USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

6 **SECTION 8.3.(a)** Funds appropriated to the Community Colleges System
7 Office for the College Information System Project shall not revert at the end of the
8 2005-2006 fiscal year but shall remain available until expended.

9 **SECTION 8.3.(b)** Notwithstanding G.S. 143-23, the Community Colleges
10 System Office may, subject to the approval of the Office of State Budget and
11 Management, in consultation with the Office of Information Technology Services, and
12 after consultation with the Joint Legislative Commission on Governmental Operations,
13 use funds appropriated in this act for the College Information System Project to create a
14 maximum of 20 positions or incur expenditures necessary to transfer the maintenance
15 and administration of the College Information System Project from the vendor to the
16 System Office.

17 **SECTION 8.3.(c)** The Community Colleges System Office shall report on a
18 quarterly basis to the Joint Legislative Education Oversight Committee on the
19 implementation of the College Information System Project.

20 **SECTION 8.3.(d)** Subsection (a) of this section becomes effective June 30,
21 2006.
22

23 **CARRYFORWARD FOR EQUIPMENT**

24 **SECTION 8.4.(a)** Subject to the approval of the Office of State Budget and
25 Management and cash availability, the North Carolina Community Colleges System
26 Office may carry forward an amount not to exceed ten million dollars (\$10,000,000) of
27 the operating funds that were not reverted in fiscal year 2005-2006 to be reallocated to
28 the State Board of Community Colleges' Equipment Reserve Fund. These funds shall
29 be distributed to colleges consistent with G.S. 115D-31.

30 **SECTION 8.4.(b)** This section becomes effective June 30, 2006.
31

32 **NC COMMUNITY COLLEGE SYSTEM MAY USE STATE FUNDS IN LIEU 33 OF FEDERAL FUNDS DUE TO FEDERAL MANDATES**

34 **SECTION 8.5.** Notwithstanding G.S. 143-23, the Community Colleges
35 System Office may use State literacy funds to fund the State administration of the GED
36 office. Federal funds previously used to support the State administration functions shall
37 be reallocated to the colleges.
38

39 **REPORT ON THE NCCCS BIONETWORK**

40 **SECTION 8.6.** The Community Colleges System Office shall report by
41 November 1, 2006, to the Joint Legislative Education Oversight Committee, the Office
42 of State Budget and Management, and the Fiscal Research Division on the
43 implementation of the NCCCS BioNetwork. This report shall include an explanation of
44 the BioNetwork's activities, accomplishments, and expenditures.
45

46 **STUDY OF NEW AND EXPANDING INDUSTRY TRAINING**

47 **SECTION 8.7.** The Office of State Budget and Management shall conduct a
48 study to analyze and evaluate the New and Expanding Industry Training program of the
49 North Carolina Community College System. This study shall examine the companies
50 served, the number of times each company has been served, the number of jobs created,
51 the length of time the company has remained in North Carolina after receiving New and
52 Expanding Industry Training funds, and whether the company has maintained
53 employment levels at the same level promised when training was received. The
54 findings of the study shall be reported to the Joint Legislative Education Oversight
55 Committee no later than April 1, 2007.

MATCHING REQUIREMENT FOR BOND FUNDS

SECTION 8.8. Section 3(d) of S.L. 2000-3 reads as rewritten:

"**Section 3.(d)** If the State Board of Community Colleges determines that a community college has not met its matching requirements by July 1, ~~2006,2007~~, with respect to a capital improvement project for which bond proceeds are allocated in this act, the Board shall certify that fact to the State Treasurer by October 1, ~~2006,2007~~. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, ~~2006,2007~~, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

- (1) The State Board of Community Colleges shall generate, by October 1, ~~2006,2007~~, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful factors relevant to capital needs, including actual and projected enrollment, space requirements, current capacity, construction costs, and any other factors the State Board considers relevant.
- (2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:
 - a. No projected allocation shall be made for a community college that the Board certified in accordance with this subsection had failed to meet a matching requirement.
 - b. No more than four million dollars (\$4,000,000) shall be allocated to a single community college.
 - c. Funds shall not be allocated for more than one project per community college.
- (3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes."

COMMUNITY COLLEGE LOW-WEALTH FUNDING

SECTION 8.9.(a) G.S. 115D-31.3 is amended by adding a new subsection to read:

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

- (1) Is designated as a Tier 1 or Tier 2 county in accordance with G.S. 105-129.3;

- 1 (2) Had an unemployment rate of at least two percent (2%) above the
2 State average or greater than seven percent (7%), whichever is higher,
3 in the prior calendar year; and
4 (3) Is a county whose wealth, as calculated under the formula for
5 distributing supplemental funding for schools in low-wealth counties,
6 is eighty percent (80%) or less of the State average.

7 Funds may be used for this purpose only after all local funds appropriated for
8 maintenance of plant have been expended."

9 **SECTION 8.9.(b)** This section becomes effective June 30, 2006.

10 11 **COMMUNITY COLLEGE FACILITIES AND EQUIPMENT**

12 **SECTION 8.10.(a)** Of the funds appropriated to the Community Colleges
13 System Office for facilities and equipment needs, the sum of fifteen million dollars
14 (\$15,000,000) shall be used to create the Community College Facilities and Equipment
15 Fund. This Fund shall be used for the purpose of awarding grants to community
16 colleges for facility and equipment needs. The Community Colleges System Office, in
17 consultation with the State Board of Community Colleges shall develop a competitive
18 grant application process and guidelines for facility or equipment needs. The State
19 Board of Community Colleges shall award grants on the merit of the applications
20 received. No individual grant may exceed the sum of one million dollars (\$1,000,000).

21 These grants shall be awarded on a matching basis of one State dollar for
22 every one non-State dollar.

23 **SECTION 8.10.(b)** Beginning September 1, 2006, the Community Colleges
24 System Office shall submit a report to the Office of State Budget and Management and
25 the Fiscal Research Division containing the following information about each grant that
26 was awarded: (i) the name of the community college; (ii) a description of the project;
27 (iii) the project location; (iv) the cost-benefit analysis conducted by the Community
28 Colleges System Office and the rationale for awarding the grant; and (v) the amount of
29 the grant.

30 **SECTION 8.10.(c)** The Community Colleges System Office shall develop
31 guidelines related to the administration of the Community College Facilities and
32 Equipment Fund and to the selection of projects to receive grants from the Fund. At
33 least 20 days before the effective date of any guidelines or nontechnical amendments to
34 guidelines, the System Office must publish the proposed guidelines on the System
35 Office's Web site and provide notice to persons who have requested notice of proposed
36 guidelines. In addition, the State Board shall accept oral and written comments on the
37 proposed guidelines during the 15 business days beginning on the first day that the
38 Department has completed these notifications. For the purpose of this subsection, a
39 technical amendment is either of the following:

- 40 (1) An amendment that corrects a spelling or grammatical error.
41 (2) An amendment that makes a clarification based on public comment
42 and could have been anticipated by the public notice that immediately
43 preceded the public comment.

44 **SECTION 8.10.(d)** G.S. 150B-1(d) is amended by adding a new subdivision
45 to read:

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

- 48 ...
49 (14) The Community Colleges System Office in developing guidelines for
50 the Community College Facilities and Equipment Fund."

51 52 **PART IX. UNIVERSITIES**

53 54 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

1 **SECTION 9.1.** The University of North Carolina and Community Colleges
2 System Office shall report by September 1, 2006, to the Joint Legislative Education
3 Oversight Committee, the Office of State Budget and Management, and the Fiscal
4 Research Division of the General Assembly on the implementation of the UNC-NCCCS
5 2+2 E-Learning Initiative. This report shall include:

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

23 24 **TEACHER EDUCATION PROGRAM ENROLLMENT PLANS**

25 **SECTION 9.2.** The University of North Carolina Board of Governors' Task
26 Force on Meeting Teacher Supply and Demand called for the President to develop a
27 plan for enrollment growth in the University System's teacher education programs to
28 respond to the State's shortage of teachers. In a presentation to the Joint Legislative
29 Education Oversight Committee and to the Board of Governors, a commitment was
30 made to increase the number of teacher education graduates. The University of North
31 Carolina General Administration shall obtain plans from each constituent institution as
32 to how they will maintain their current enrollment in the teacher education programs
33 and achieve their growth targets to ensure such increases in those programs occur. Plans
34 may include using enrollment growth funds for targeted admissions, enhanced student
35 support, and advising, recruiting, increases in faculty in necessary instructional areas
36 that lead to certification, and other methods General Administration believes will
37 achieve those results. The University of North Carolina General Administration shall
38 report back to the Office of State Budget and Management and the Joint Legislative
39 Education Oversight Committee no later than December 30, 2006, on each constituent
40 institution's plan. No later than March 31, 2007, The University of North Carolina
41 General Administration shall submit a report on progress towards meeting this priority
42 for the 2007-2008 academic year, based on each constituent institution's current
43 students in the education programs, and the students who have been accepted for the
44 2007-2008 fiscal year who are enrolling in the education programs. The report shall also
45 explain the distribution of enrollment growth funds by specific initiative.

46 47 **NORTH CAROLINA IN THE WORLD PROJECT**

48 **SECTION 9.3.** In collaboration with the State Board of Education and the
49 Department of Commerce, the NC Center for International Understanding shall develop
50 a plan to ensure that public K-12 international education efforts such as teacher and
51 student exchanges, curriculum development, and other initiatives for students, teachers,
52 and administrators are focused on key countries and regions of strategic economic
53 interest to North Carolina. The North Carolina Center for International Understanding
54 shall report to the Office of State Budget and Management and the Joint Legislative
55 Education Oversight Committee on the activities and accomplishments of the two

1 hundred thousand dollar (\$200,000) nonrecurring appropriation for North Carolina in
2 the World Project no later than March 31, 2007.

3
4 **A+ SCHOOLS – BUDGET TECHNICAL CORRECTION**

5 **SECTION 9.3A.** Recurring funds in the amount of one hundred thousand
6 dollars (\$100,000) appropriated to the Department of Public Instruction for the
7 2006-2007 fiscal year in S.L. 2005-276 as pass-through funds for A+ Schools shall be
8 transferred to the Board of Governors of The University of North Carolina to provide
9 pass-through funds for A+ Schools for the same purpose of providing support for the
10 program that assists schools in implementing comprehensive school reform by
11 integrating arts into the curriculum.

12
13 **STUDY THE FEASIBILITY OF ADDING NORTH CAROLINA WESLEYAN**
14 **COLLEGE TO UNC SYSTEM**

15 **SECTION 9.4.(a)** The Board of Governors of The University of North
16 Carolina shall study the feasibility of making North Carolina Wesleyan College a
17 constituent institution of The University of North Carolina. The study shall include all
18 of the following:

- 19 (1) **Mission.** – The Board of Governors shall evaluate the potential
20 missions of the campus that would meet the academic and economic
21 needs of the region, the State, and of the University System. The Board
22 of Governors shall take into account the need to avoid duplication of
23 curriculum and programs at other campuses, particularly those within
24 the same geographic area, unless the need for duplication is warranted.
25 The Board of Governors shall seek recommendations, suggestions, and
26 comments from community leaders, educational experts, and business
27 leaders in defining the mission of the new campus. Particular focus
28 shall be placed on utilizing the campus in a manner that addresses both
29 the economic and educational challenges of the region in a unique and
30 focused manner, such as in the areas of science, technology, education,
31 and economic development.
- 32 (2) **Cost.** – The Board of Governors shall analyze the potential operating
33 costs of the campus. Factors such as the mission, staff and faculty
34 salaries, benefits, total faculty and staff levels, total projected student
35 enrollment, facility needs, and tuition rates shall be taken into account.
- 36 (3) **Facility Needs.** – The Board of Governors shall consider what
37 additional facility needs there may be, taking into account the
38 proposed mission of the campus. Examples of those needs may be lab
39 facility upgrades, new buildings to house an expanded student
40 population, and associated infrastructure expansion.
- 41 (4) **Asset Transfer.** – The Board of Governors shall obtain legal and
42 financial analyses to determine if there are any restrictions attached to
43 any of the College's assets (title to property, gifts to endowment, assets
44 purchased with restricted grant funds, etc.) that would prohibit the
45 transfer of the assets to the State. If there are restrictions, then the
46 analyses shall also include the steps necessary to lift the restrictions
47 and the costs of obtaining a clear title.
- 48 (5) **Liability Analysis.** – The Board of Governors shall also obtain a legal
49 analysis to determine whether there are pending liabilities against the
50 campus or reasonably foreseeable future liabilities against the campus.
51 If there are such liabilities, the legal analysis shall also address the
52 action needed to avoid transfer of any liability to the State.
- 53 (6) **Transition of Current Students/Programs.** – The Board of Governors
54 shall consider how best to handle the transition of the currently

1 enrolled student population, both on and off campus, into continuing
2 or new curriculum programs during the conversion period.

3 (7) Personnel. – The Board of Governors shall assess the employment
4 status of current personnel to determine what, if any, contractual and
5 other employment issues may arise in the conversion.

6 (8) Legislative Action. – The Board of Governors shall determine the
7 legislative action and statutory amendments needed to authorize and
8 implement the conversion.

9 **SECTION 9.4.(b)** Of the funds available to the Board of Governors of The
10 University of North Carolina, the sum of fifty thousand dollars (\$50,000) for the
11 2006-2007 fiscal year shall be used to conduct the study required by this act.

12 13 **GRADUATE NURSE SCHOLARSHIP PROGRAM FOR FACULTY** 14 **PRODUCTION**

15 **SECTION 9.6.** Chapter 90 of the General Statutes is amended by adding the
16 following new Article to read:

17 "ARTICLE 9H.

18 "Graduate Nurse Scholarship Program for Faculty Production.

19 "§ 90-171.95. Graduate Nurse Scholarship Program for Faculty Production 20 established; administration.

21 (a) There is established the Graduate Nurse Scholarship Program for Faculty
22 Production. The North Carolina Nursing Scholars Commission shall determine selection
23 criteria, methods of selection, and shall select recipients of scholarship loans made
24 under the Graduate Nurse Scholarship Program for Faculty Production.

25 (b) The Graduate Nurse Scholarship Program for Faculty Production shall be
26 used to provide the following:

27 (1) A scholarship loan for up to two years in the amount of fifteen
28 thousand dollars (\$15,000) per year, per recipient, to students enrolled
29 in a masters degree program in nursing education or any other area of
30 the nursing field that would permit them to become a nursing
31 instructor at a North Carolina community college or university.

32 (2) A scholarship loan for up to three years in the amount of fifteen
33 thousand dollars (\$15,000) per year, per recipient, to students enrolled
34 in a doctoral degree program in nursing education or any other area of
35 the nursing field that would permit them to become a nursing
36 instructor at a North Carolina community college or university.

37 The State Education Assistance Authority shall adopt specific rules to regulate these
38 scholarship loans.

39 (c) If a recipient is awarded a scholarship loan under this program and is
40 enrolled, or accepted for enrollment, in an eligible program, but is unable to pursue the
41 course of study in nursing for a semester due to limited faculty resources at the
42 institution for that semester, then the recipient shall continue to receive the scholarship
43 loan for that semester and shall not be required to forfeit or repay the scholarship loan
44 for that semester, provided that the recipient remains otherwise eligible for the program.
45 This waiver shall be valid for only one semester of study and may extend a recipient's
46 eligibility for funding under the program by no more than one semester.

47 (d) The Commission shall adopt stringent standards, which may include
48 minimum grade point average, scholastic aptitude test scores, and other standards
49 deemed appropriate by the Commission, to ensure that only the best potential students
50 receive loans under the Graduate Nurse Scholarship Program for Faculty Production.
51 Standards adopted by the Commission shall include provisions for ensuring that the
52 qualifications of applicants who are or would be nontraditional students are considered
53 fairly in providing them with opportunities to compete for the loans. Loans under the
54 Graduate Nurse Scholarship Program for Faculty Production shall be awarded only to
55 applicants who meet the standards set by the Commission and who agree to teach in a

1 North Carolina public or private nursing program upon completion of the nursing
2 education program supported by the loan.

3 (e) The Commission shall develop and administer the Graduate Nurse
4 Scholarship Program for Faculty Production in cooperation with nursing schools at
5 institutions approved by the Commission and the North Carolina Board of Nursing. The
6 Graduate Nurse Scholarship Program for Faculty Production shall provide for
7 participants to be exposed to a range of extracurricular activities while in school, which
8 activities shall be aimed at instilling in students a strong motivation to remain in the
9 practice of nursing education and to provide leadership for the nursing profession.

10 (f) The Commission shall make an effort to identify and encourage minority
11 students and students who may not otherwise consider a career in nursing to apply for
12 the Graduate Nurse Scholarship Program for Faculty Production.

13 (g) Upon the naming of recipients of loans from the Graduate Nurse Scholarship
14 Program for Faculty Production, the Commission shall inform the State Education
15 Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the
16 administrative functions necessary to implement this Article, which functions shall
17 include: rulemaking, dissemination of information to the public, distribution and receipt
18 of applications for scholarship loans, and the functions necessary for the execution,
19 payment, and enforcement of promissory notes required under this Article.

20 **"§ 90-171.96. Terms of loans; receipt and disbursement of funds.**

21 (a) All scholarship loans shall be evidenced by notes made payable to the State
22 Education Assistance Authority that bear interest at the rate of ten percent (10%) per
23 year beginning 90 days after completion of the nursing education program, or 90 days
24 after termination of the scholarship loan, whichever is earlier. The scholarship loan may
25 be terminated upon the recipient's withdrawal from school or by the recipient's failure to
26 meet the standards set by the Commission.

27 (b) The State Education Assistance Authority shall forgive the loan if, within
28 seven years after graduation from a nursing education program, the recipient teaches in
29 a public or private nursing education program in a public or private educational
30 institution in North Carolina for one year for every year a scholarship loan was
31 provided. If the recipient repays the scholarship loan by cash payments, all indebtedness
32 shall be repaid within 10 years. The Authority may provide for accelerated repayment
33 and for less than full-time employment options to encourage the practice of nursing
34 education in either geographic or nursing specialty shortage areas. The Authority shall
35 adopt specific rules to designate these geographic areas and these nursing specialty
36 shortage areas, upon recommendations of the North Carolina Center for Nursing. The
37 North Carolina Center for Nursing shall base its recommendations on objective
38 information provided by interested groups or agencies and upon objective information
39 collected by the Center. The Authority may forgive the scholarship loan if it determines
40 that it is impossible for the recipient to teach in a public or private nursing program in
41 North Carolina for a sufficient time to repay the loan because of the death or permanent
42 disability of the recipient within 10 years following graduation or termination of
43 enrollment in a nursing education program.

44 (c) All funds appropriated to or otherwise received by the Graduate Nurse
45 Scholarship Program for Faculty Production for scholarships, all funds received as
46 repayment of scholarship loans, and all interest earned on these funds shall be placed in
47 a revolving fund. This revolving fund may be used only for scholarship loans granted
48 under the Graduate Nurse Scholarship Program for Faculty Production."

50 **MANAGEMENT FLEXIBILITY TO REORGANIZE BUDGET CODE 16012**
51 **UNC BOARD OF GOVERNORS RELATED EDUCATIONAL PROGRAMS**

52 **SECTION 9.7.** Notwithstanding G.S. 143-23, for the 2006-2007 fiscal year,
53 the General Administration of The University of North Carolina and the State
54 Educational Assistance Authority shall, with the approval of the Office of State Budget
55 and Management, reorganize budget code 16012, UNC Board of Governors Related

1 Educational Programs, so that the budget reflects and segregates each specific program
2 individually. The Office of State Budget and Management shall work with The
3 University of North Carolina General Administration and the State Educational
4 Assistance Authority to ensure that each program represented in code 16012 is
5 identified and budgeted separately.
6

7 TRANSFERS OF APPROPRIATION

8 **SECTION 9.8.** G.S. 116-30.2(a) reads as rewritten:

9 "(a) All General Fund appropriations made by the General Assembly for
10 continuing operations of a special responsibility constituent institution of The
11 University of North Carolina shall be made in the form of a single sum to each budget
12 code of the institution for each year of the fiscal period for which the appropriations are
13 being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 120-76(8),
14 each special responsibility constituent institution may expend monies from the overhead
15 receipts special fund budget code and the General Fund monies so appropriated to it in
16 the manner deemed by the Chancellor to be calculated to maintain and advance the
17 programs and services of the institutions, consistent with the directives and policies of
18 the Board of Governors. Special responsibility constituent institutions may transfer
19 appropriations between budget codes. These transfers shall be considered certified even
20 if as a result of agreements between special responsibility constituent institutions. The
21 preparation, presentation, and review of General Fund budget requests of special
22 responsibility constituent institutions shall be conducted in the same manner as are
23 requests of other constituent institutions. The quarterly allotment procedure established
24 pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the
25 current operations of each special responsibility constituent institution. All General
26 Fund monies so appropriated to each special responsibility constituent institution shall
27 be recorded, reported, and audited in the same manner as are General Fund
28 appropriations to other constituent institutions."
29

30 NURSING SCHOLARS PROGRAM MODIFICATION

31 **SECTION 9.9.(a)** G.S. 90-171.61 reads as rewritten:

32 **"§ 90-171.61. Nursing Scholars Program established; administration.**

33 (a) There is established the Nursing Scholars Program. The North Carolina
34 Nursing Scholars Commission shall determine selection criteria, methods of selection,
35 and shall select recipients of scholarship loans made under the Nursing Scholars
36 Program.

37 (b) The Nursing Scholars Program shall be used to provide the following:

- 38 (1) ~~A four year scholarship loan~~ Scholarship loans in the amount amounts
39 of up to of five thousand dollars (\$5,000) six thousand five hundred
40 dollars (\$6,500) per year, for each scholarship of no more than four
41 years per recipient, to North Carolina high school seniors or other
42 persons residents interested in preparing to become a registered nurse
43 nurses through a associate or baccalaureate degree program programs
44 or through diploma programs.
45 (2) ~~A two year scholarship loan in the amount of three thousand dollars~~
46 ~~(\$3,000) per year, per recipient, to persons interested in preparing to be~~
47 ~~a registered nurse through an associate degree nursing program or a~~
48 ~~diploma nursing program.~~
49 (3) ~~A two year scholarship loan in the amount of three thousand dollars~~
50 ~~(\$3,000) per year, per recipient, for two years of baccalaureate nursing~~
51 ~~study for college juniors or community college graduates interested in~~
52 ~~preparing to be a registered nurse.~~
53 (4) ~~A two year scholarship loan of three thousand dollars (\$3,000) per~~
54 ~~year, per recipient, for two years of baccalaureate study in nursing for~~
55 ~~registered nurses who do not hold a baccalaureate degree in nursing.~~

1 (5) ~~A two-year scholarship loan~~ Scholarship loans of six thousand five
2 hundred dollars ~~(\$6,000)~~ (\$6,500) per year, per recipient, for two years
3 of study leading to a master of science in nursing degree for ~~people~~
4 residents already holding a baccalaureate degree in nursing.

5 ~~In addition to the awarding~~ scholarship loans awarded pursuant to subdivisions (1)
6 ~~through and~~ (5) of this subsection, the Commission may award pro rata scholarship
7 loans to recipients enrolled at least half-time in study to become registered nurses or to
8 attain a master of science in nursing degree. ~~in study leading to a master of science in~~
9 ~~nursing degree who already hold a baccalaureate degree in nursing and to recipients~~
10 ~~enrolled at least half-time in study leading to a baccalaureate degree in nursing who~~
11 ~~already are licensed as registered nurses.~~ In awarding all scholarship loans, the
12 Commission shall give priority to full-time students over part-time students. The State
13 Education Assistance Authority shall adopt specific rules to regulate scholarship loans
14 to part-time ~~master of science in nursing students and part-time baccalaureate degree~~
15 ~~students.~~ students.

16 Within current funds available or with any additional funds provided by the General
17 Assembly for this purpose, the Commission may set aside slots for scholarship loans
18 prescribed by ~~subdivisions (1) and (2)~~ subdivision (1) of this subsection to enable
19 licensed practical nurses to become registered nurses. The State Education Assistance
20 Authority shall adopt specific rules to regulate these scholarship loans.

21 (b1) If a recipient is awarded a scholarship loan under this program and is
22 enrolled, or accepted for enrollment, in a baccalaureate nursing program, but is unable
23 to pursue the course of study in nursing for a semester due to limited faculty resources
24 at the institution for that semester, then the recipient shall continue to receive the
25 scholarship loan for that semester and shall not be required to forfeit or repay the
26 scholarship loan for that semester provided that the recipient remains otherwise eligible
27 for the program. This waiver shall be valid for only one semester of study and may
28 extend a recipient's eligibility for funding under the program by no more than one
29 semester.

30 (c) The Commission shall adopt stringent standards, which may include
31 minimum grade point average, scholastic aptitude test scores, and other standards
32 deemed appropriate by the Commission, to ensure that only the best potential students
33 receive and retain loans under the Nursing Scholars Program. Standards adopted by the
34 Commission shall include provisions for ensuring that the qualifications of applicants
35 who are or would be nontraditional students are considered fairly in providing them
36 with opportunities to compete for the loans. Loans under the Nursing Scholars Program
37 shall be awarded only to applicants who meet the standards set by the Commission and
38 who agree to practice nursing in North Carolina upon completion of the nursing
39 education program supported by the loan.

40 (d) The Commission shall develop and administer the Nursing Scholars Program
41 in cooperation with nursing schools at institutions approved by the Commission and the
42 North Carolina Board of Nursing. The Nursing Scholars Program shall provide for
43 participants to be exposed to a range of extracurricular activities while in school, which
44 activities shall be aimed at instilling in students a strong motivation to remain in the
45 practice of nursing and to provide leadership for the nursing profession.

46 (e) The Commission may form regional review committees within North
47 Carolina to assist it in identifying the best high school seniors and other applicants for
48 the program. The Commission and the review committees shall make an effort to
49 identify and encourage minority students and students who may not otherwise consider
50 a career in nursing to apply for the Nursing Scholars Program.

51 (f) Upon the naming of recipients of loans from the Nursing Scholars Program,
52 the Commission shall inform the State Education Assistance Authority (SEAA) of its
53 decisions. The SEAA shall perform all of the administrative functions necessary to
54 implement this Article, which functions shall include: rule-making, dissemination of
55 information to the public, distribution and receipt of applications for scholarship loans,

1 and the functions necessary for the execution, payment, and enforcement of promissory
2 notes required under this Article."

3 **SECTION 9.9.(b)** This section applies to all scholarship loans awarded or
4 renewed on or after July 1, 2006.

5
6 **UNC BOARD OF GOVERNORS MEDICAL AND DENTAL SCHOLARSHIPS**

7 **SECTION 9.10.(a)** Section 9.9(a) of S.L. 2005-276 reads as rewritten:

8 "SECTION 9.9.(a) The current Board of Governors' Dental Scholarship Program,
9 under the purview of the Board of Governors of The University of North Carolina, shall
10 make any awards to students admitted after July 1, 2005, as scholarship loan awards.
11 The Board of Governors' Dental Scholarship Program is administered by the Board of
12 Governors of The University of North Carolina. The Board of Governors' Dental
13 Scholarship Program shall be used to provide a four-year scholarship loan of relevant
14 tuition and fees, mandatory medical insurance, required laptop computers for first-year
15 students, required dental equipment, and an annual payment of five thousand dollars
16 (\$5,000) per year to students who have been accepted for admission to the School of
17 Dentistry at the University of North Carolina at Chapel Hill. The Board may adopt
18 standards, including minimum grade point average and DAT scores, for awarding these
19 scholarship loans to ensure that only the most qualified students receive them. The
20 Board shall make an effort to identify and encourage minority and economically
21 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
22 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
23 per year beginning September 1 after completion of the program, or immediately after
24 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
25 terminated by the recipient withdrawing from school or by the recipient not meeting the
26 standards set by the Board. The Board shall forgive the loan if, within seven years after
27 graduation, the recipient practices dentistry in North Carolina for four years. An
28 extension of the seven-year period for satisfaction of the service requirements for the
29 scholarship loan may be granted subject to the approval on the finding of extenuating
30 circumstances by the State Education Assistance Authority. Such extenuating
31 circumstances may include, but are not be limited to, participation in a dental residency
32 program. The Board shall also forgive the loan if it finds that it is impossible for the
33 recipient to practice dentistry in North Carolina for four years, within seven years after
34 graduation, because of the death or permanent disability of the recipient. All unused
35 funds appropriated to or otherwise received by the Board for scholarships, all funds
36 received as repayment of scholarship loans, and all interest earned on these funds shall
37 revert to the General Fund at the end of each fiscal year."

38 **SECTION 9.10.(b)** Section 9.10(a) of S.L. 2005-276 reads as rewritten:

39 "SECTION 9.10.(a) The current Board of Governors' Medical Scholarship
40 Program, under the purview of the Board of Governors of The University of North
41 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
42 loan awards. The Board of Governors' Medical Scholarship Program is administered by
43 the Board of Governors of The University of North Carolina. The Board of Governors'
44 Medical Scholarship Program shall be used to provide a four-year scholarship loan of
45 relevant tuition and fees, mandatory medical insurance, required laptop computers, and
46 an annual payment of five thousand dollars (\$5,000) per year to students who have been
47 accepted for admission to either Duke University School of Medicine, Brody School of
48 Medicine at East Carolina University, the University of North Carolina at Chapel Hill
49 School of Medicine, or the Wake Forest University School of Medicine. The Board may
50 adopt standards, including minimum grade point average and MCAT scores, for
51 awarding these scholarship loans to ensure that only the most qualified students receive
52 them. The Board shall make an effort to identify and encourage minority and
53 economically disadvantaged youth to enter the program. All scholarship loans shall be
54 evidenced by notes made payable to the Board that shall bear interest at the rate of ten
55 percent (10%) per year beginning September 1 after completion of the program, or

1 immediately after termination of the scholarship loan, whichever is earlier. The
 2 scholarship loan may be terminated by the recipient withdrawing from school or by the
 3 recipient not meeting the standards set by the Board. The Board shall forgive the loan if,
 4 within seven years after graduation, the recipient practices medicine in North Carolina
 5 for four years. An extension of the seven-year period for satisfaction of the service
 6 requirements of the scholarship loan may be granted subject to the approval of the State
 7 Education Assistance Authority. Such extenuating circumstances may include, but not
 8 be limited to, participation in a medical residency program. The Board shall also
 9 forgive the loan if it finds that it is impossible for the recipient to practice medicine in
 10 North Carolina for four years, within seven years after graduation, because of the death
 11 or permanent disability of the recipient. All unused funds appropriated to or otherwise
 12 received by the Board for scholarships, all funds received as repayment of scholarship
 13 loans, and all interest earned on these funds shall revert to the General Fund at the end
 14 of each fiscal year."

15 **SECTION 9.10.(c)** This section is effective when it becomes law and
 16 applies to all scholarship loans issued after July 1, 2005.

17
 18 **NC SCHOOL OF SCIENCE AND MATH/HIGH SCHOOL CONSTITUENT**
 19 **INSTITUTION**

20 **SECTION 9.11.(a)** G.S. 116-2 reads as rewritten:

21 **"§ 116-2. Definitions.**

22 As used in this Article, unless the context clearly indicates a contrary intent:

- 23 (1) "Board" means the Board of Governors of the University of North
 24 Carolina.
 25 (2) "Board of trustees" means the board of trustees of a constituent
 26 institution.
 27 (3) "Chancellor" means the chancellor of a constituent institution.
 28 (4) "Constituent institution" or "institution" means one of the 16 public
 29 ~~senior institutions,~~ institutions of higher education, to wit, the
 30 University of North Carolina at Chapel Hill, North Carolina State
 31 University at Raleigh, the University of North Carolina at Greensboro,
 32 the University of North Carolina at Charlotte, the University of North
 33 Carolina at Asheville, the University of North Carolina at Wilmington,
 34 Appalachian State University, East Carolina University, Elizabeth City
 35 State University, Fayetteville State University, North Carolina
 36 Agricultural and Technical State University, North Carolina Central
 37 University, North Carolina School of the Arts, Pembroke State
 38 University, redesignated effective July 1, 1996, as the "University of
 39 North Carolina at Pembroke", Western Carolina University, and
 40 Winston-Salem State University, and the constituent high
 41 school, the North Carolina School of Science and Mathematics.
 42 (5) "President" means the President of the University of North Carolina.
 43 (6) "Vending facilities" has the same meaning as it does in
 44 G.S. 143-12.1."

45 **SECTION 9.11.(b)** G.S. 116-4 reads as rewritten:

46 **"§ 116-4. Constituent institutions of the University of North Carolina.**

47 ~~On July 1, 1972, the~~ The University of North Carolina shall be composed of the
 48 following ~~institutions:~~ institutions of higher education: the University of North Carolina
 49 at Chapel Hill, North Carolina State University at Raleigh, the University of North
 50 Carolina at Greensboro, the University of North Carolina at Charlotte, the University of
 51 North Carolina at Asheville, the University of North Carolina at Wilmington,
 52 Appalachian State University, East Carolina University, Elizabeth City State University,
 53 Fayetteville State University, North Carolina Agricultural and Technical State
 54 University, North Carolina Central University, North Carolina School of the Arts,
 55 Pembroke State University, redesignated effective July 1, 1996, as the "University of

1 North Carolina at Pembroke", Western Carolina University and Winston-Salem State
2 ~~University~~. University, and the constituent high school, the North Carolina School of
3 Science and Mathematics."

4 **SECTION 9.11.(c)** G.S. 116-12 reads as rewritten:

5 **"§ 116-12. Property and obligations.**

6 All property of whatsoever kind and all rights and privileges held by the Board of
7 Higher Education and by the Boards of Trustees of Appalachian State University, East
8 Carolina University, Elizabeth City State University, Fayetteville State University,
9 North Carolina Agricultural and Technical State University, North Carolina Central
10 University, North Carolina School of the Arts, Pembroke State University, redesignated
11 effective July 1, 1996, as the "University of North Carolina at Pembroke", Western
12 Carolina University and Winston-Salem State University, as said property, rights and
13 privileges may exist immediately prior to July 1, 1972, shall be, and hereby are,
14 effective July 1, 1972, transferred to and vested in the Board of Governors of the
15 University of North Carolina. All obligations of whatsoever kind of the Board of Higher
16 Education and of the Boards of Trustees of Appalachian State University, East Carolina
17 University, Elizabeth City State University, Fayetteville State University, North
18 Carolina Agricultural and Technical State University, North Carolina Central
19 University, North Carolina School of the Arts, Pembroke State University, redesignated
20 effective July 1, 1996, as the "University of North Carolina at Pembroke", Western
21 Carolina University and Winston-Salem State University, as said obligations may exist
22 immediately prior to July 1, 1972, shall be, and the same hereby are, effective July 1,
23 1972, transferred to and assumed by the Board of Governors of the University of North
24 Carolina. Any property, real or personal, held immediately prior to July 1, 1972, by a
25 board of trustees of a constituent institution for the benefit of that institution or by the
26 University of North Carolina for the benefit of any one or more of its six institutions,
27 shall from and after July 1, 1972, be kept separate and distinct from other property held
28 by the Board of Governors, shall continue to be held for the benefit of the institution or
29 institutions that were previously the beneficiaries and shall continue to be held subject
30 to the provisions of the respective instruments, grants or other means or process by
31 which any property right was acquired. All property of whatsoever kind and all rights
32 and privileges held by the Board of Trustees of the North Carolina School of Science
33 and Mathematics, as said property, rights and privileges may exist immediately prior to
34 July 1, 2007, shall be and hereby are, effective July 1, 2007, transferred to and vested in
35 the Board of Governors of The University of North Carolina. All obligations of
36 whatsoever kind of the Board of Trustees of the North Carolina School of Science and
37 Mathematics as said obligations may exist immediately prior to July 1, 2007, shall be,
38 and the same hereby are, effective July 1, 2007, transferred to and assumed by the
39 Board of Governors of The University of North Carolina. In case a conflict arises as to
40 which property, rights or privileges were held for the beneficial interest of a particular
41 institution, or as to the extent to which such property, rights or privileges were so held,
42 the Board of Governors shall determine the issue, and the determination of the Board
43 shall constitute final administrative action. Nothing in this Article shall be deemed to
44 increase or diminish the income, other revenue or specific property which is pledged, or
45 otherwise hypothecated, for the security or liquidation of any obligations, it being the
46 intent that the Board of Governors shall assume said obligations without thereby either
47 enlarging or diminishing the rights of the holders thereof."

48 **SECTION 9.11.(d)** G.S. 116-17 reads as rewritten:

49 **"§ 116-17. Purchase of annuity or retirement income contracts for faculty**
50 **members, officers and employees.**

51 Notwithstanding any provision of law relating to salaries and/or salary schedules for
52 the pay of faculty members, administrative officers, or any other employees of
53 universities, ~~colleges~~ colleges, constituent institutions, and other institutions of higher
54 learning as named and set forth in this Article, and other State agencies qualified as
55 educational institutions under section 501(c)(3) of the United States Internal Revenue

1 Code, the governing boards of any such universities, ~~colleges~~ colleges, constituent
 2 institutions, and other institutions of higher learning may authorize the business officer
 3 or agent of same to enter into annual contracts with any of the faculty members,
 4 administrative officers and employees of said institutions ~~of higher learning~~ which
 5 provide for a reduction in salary below the total established compensation or salary
 6 schedule for a term of one year. The financial officer or agent shall use the funds
 7 derived from the reduction in the salary of the faculty member, administrative officer or
 8 employee to purchase a nonforfeitable annuity or retirement income contract for the
 9 benefit of said faculty member, administrative officer or employee of said universities,
 10 colleges and ~~institutions of higher learning~~ institutions. A faculty member,
 11 administrative officer or employee who has agreed to a salary reduction for this purpose
 12 shall not have the right to receive the amount of the salary reduction in cash or in any
 13 other way except the annuity or retirement income contract. Funds used for the purchase
 14 of an annuity or retirement income contract shall not be in lieu of any amount earned by
 15 the faculty member, administrative officer or employee before his election for a salary
 16 reduction has become effective. The agreement for salary reductions referred to herein
 17 shall be effected under any necessary regulations and procedures adopted by the various
 18 governing boards of the various institutions ~~of higher learning~~ and on forms prepared by
 19 said governing boards. Notwithstanding any other provision of this section or law, the
 20 amount by which the salary of any faculty member, administrative officer or employee
 21 is reduced pursuant to this section shall not be excluded, but shall be included, in
 22 computing and making payroll deductions for social security and retirement system
 23 purposes, and in computing and providing matching funds for retirement system
 24 purposes.

25 In lieu of the annuity and related contracts provided for under this section, interests
 26 in custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections
 27 of the Internal Revenue Code of 1986 as amended may be purchased for the benefit of
 28 qualified employees under this section with the funds derived from the reduction in the
 29 salaries of such employees."

30 **SECTION 9.11.(e)** The catch line of G.S. 116-30.2 reads as rewritten:

31 "**§ 116-30.2. Appropriations to special responsibility constituent institutions and to**
 32 **~~the North Carolina School of Science and Mathematics~~ institutions."**

33 **SECTION 9.11.(f)** G.S. 116-30.2(b) is repealed.

34 **SECTION 9.11.(g)** G.S. 116-31(d) reads as rewritten:

35 "(d) ~~Effective~~ Except as provided in G.S. 116-65, effective July 1, 1973, each of
 36 the 16 constituent institutions of higher education set out in G.S. 116-2(4) shall have
 37 board of trustees composed of 13 persons chosen as follows:

- 38 (1) Eight elected by the Board of Governors,
- 39 (2) Four appointed by the Governor, and
- 40 (3) The president of the student government ex officio.

41 The Board of Trustees of the North Carolina School of Science and Mathematics shall
 42 be established in accordance with G.S. 116-233."

43 **SECTION 9.11.(h)** G.S. 116-40.22(c) reads as rewritten:

44 "(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the
 45 General Statutes to the contrary, in addition to any tuition and fees set by the Board of
 46 Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may
 47 recommend to the Board of Governors tuition and fees for program-specific and
 48 institution-specific needs at that institution without regard to whether an emergency
 49 situation exists and not inconsistent with the actions of the General Assembly. The
 50 institution shall retain any tuition and fees set pursuant to this subsection for use by the
 51 institution. Notwithstanding this subsection, neither the Board of Governors of The
 52 University of North Carolina nor its Board of Trustees shall impose any tuition or
 53 mandatory fee at the North Carolina School of Science and Mathematics without the
 54 approval of the General Assembly."

55 **SECTION 9.11.(i)** G.S. 116-143 reads as rewritten:

1 **"§ 116-143. State-supported institutions of higher education required to charge**
2 **tuition and fees.**

3 The Board of Governors of ~~the~~The University of North Carolina shall fix the tuition
4 and fees, not inconsistent with actions of the General Assembly, at the institutions of
5 higher education enumerated in G.S. 116-4 in such amount or amounts as it may deem
6 best, taking into consideration the nature of each institution and program of study and
7 the cost of equipment and maintenance; and each institution shall charge and collect
8 from each student, at the beginning of each semester or quarter, tuition, fees, and an
9 amount sufficient to pay other expenses for the term.

10 In the event that said students are unable to pay the cost of tuition and required
11 academic fees as the same may become due, in cash, the said several boards of trustees
12 are hereby authorized and empowered, in their discretion, to accept the obligation of the
13 student or students together with such collateral or security as they may deem necessary
14 and proper, it being the purpose of this Article that all students in State institutions of
15 higher learning shall be required to pay tuition, and that free tuition is hereby abolished.
16 Notwithstanding this section, neither the Board of Governors of The University of
17 North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at
18 the North Carolina School of Science and Mathematics without the approval of the
19 General Assembly.

20 Inasmuch as the giving of tuition and fee waivers, or especially reduced rates,
21 represent in effect a variety of scholarship awards, the said practice is hereby prohibited
22 except when expressly authorized by statute or by the Board of Governors of ~~the~~The
23 University of North Carolina; and, furthermore, it is hereby directed and required that
24 all budgeted funds expended for scholarships of any type must be clearly identified in
25 budget reports.

26 Notwithstanding the above provision relating to the abolition of free tuition, the
27 Board of Governors of ~~the~~The University of North Carolina may, in its discretion,
28 provide regulations under which a full-time faculty member of the rank of full-time
29 instructor or above, and any full-time staff member of ~~the~~The University of North
30 Carolina may during the period of normal employment enroll for not more than one
31 course per semester in ~~the~~The University of North Carolina free of charge for tuition,
32 provided such enrollment does not interfere with normal employment obligations and
33 further provided that such enrollments are not counted for the purpose of receiving
34 general fund appropriations."

35 **SECTION 9.11.(j)** G.S. 116-230.1 reads as rewritten:

36 **"§ 116-230.1. Policy.**

37 It is hereby declared to be the policy of the State to foster, encourage, promote, and
38 provide assistance in the development of skills and careers in science and mathematics
39 among the people of the State."

40 **SECTION 9.11.(k)** G.S. 116-231 reads as rewritten:

41 **"§ 116-231. Reestablishment of the North Carolina School of Science and**
42 **Mathematics as an ~~Affiliated School~~ Constituent High School of The**
43 **University of North Carolina.**

44 The North Carolina School of Science and Mathematics is hereby reestablished, as
45 ~~an affiliated~~ a constituent high school of The University of North Carolina, and shall be
46 governed by the Board of Governors as prescribed in this Chapter and a Board of
47 Trustees as prescribed in this Article."

48 **SECTION 9.11.(l)** G.S. 116-232 reads as rewritten:

49 **"§ 116-232. Purposes.**

50 The purposes of the School shall be to foster the educational development of North
51 Carolina high school students who are academically talented in the areas of science and
52 mathematics and show promise of exceptional development and global leadership
53 through participation in a residential educational setting emphasizing instruction in the
54 areas of science and mathematics; ~~to develop, evaluate, and disseminate experimental~~
55 ~~instructional programs; and to serve all schools of the State through research and~~

1 ~~outreach activities and to provide instruction, methods, and curricula designed to~~
2 ~~improve teaching and learning in North Carolina and the nation with an emphasis on~~
3 ~~distance education and programs that expand pathways for students into careers in~~
4 ~~science and mathematics."~~

5 **SECTION 9.11.(m)** The introductory language of G.S. 116-233(a) reads as
6 rewritten:

7 "(a) ~~There~~ Notwithstanding the provisions of G.S. 116-31(d), there shall be a
8 Board of Trustees of the School, which shall consist of 27 members as follows:

9 ..."

10 **SECTION 9.11.(n)** G.S. 116-234 reads as rewritten:

11 "**§ 116-234. Board of Trustees; meetings; rules of procedure; officers.**

12 (a) The Board of Trustees shall meet at least ~~four~~ three times a year and may
13 hold special meetings at any time, at the call of the chairman or upon petition addressed
14 to the chairman by at least four of the members of the Board.

15 (b) ~~The~~ Notwithstanding the provisions of G.S. 116-32, the Board of Trustees
16 shall elect a chairman and a vice-chairman; no ex officio member may hold such an
17 office.

18 (c) The Board of Trustees shall determine its own rules of procedure and may
19 delegate to such committees as it may create such of its powers as it deems appropriate.

20 (d) Members of the Board of Trustees, other than ex officio members under
21 G.S. 116-233(a)(3), shall receive such per diem compensation and necessary travel and
22 subsistence expenses while engaged in the discharge of their official duties as is
23 provided by law for members of State boards and commissions. Ex officio members
24 under G.S. 116-233(a)(3) shall be reimbursed for travel expenses as provided by
25 G.S. 138-6."

26 **SECTION 9.11.(o)** The catch line of G.S. 116-235 reads as rewritten:

27 "**§ 116-235. Board of Trustees; additional powers and duties.**"

28 **SECTION 9.11.(p)** G.S. 116-235 is amended by adding a new subsection to
29 read:

30 "(a) In addition to the powers enumerated in Chapter 116, Article I, Part 3, the
31 Board of Trustees shall have the powers and duties set out in this section."

32 **SECTION 9.11.(q)** G.S. 116-235(a) reads as rewritten:

33 "~~(a)~~(a1) Academic Program. –

34 (1) The Board of Trustees shall establish the standard course of study for
35 the School. This course of study shall set forth the subjects to be taught
36 in each grade and the texts and other educational materials on each
37 subject to be used in each grade.

38 (2) The Board of Trustees shall adopt regulations governing class size, the
39 instructional calendar, the length of the instructional day, and the
40 number of instructional days in each term."

41 **SECTION 9.11.(r)** G.S. 116-235(b) reads as rewritten:

42 "(b) Students. –

43 (1) Admission of Students. – The School shall admit students in
44 accordance with criteria, standards, and procedures established by the
45 Board of Trustees. To be eligible to be considered for admission, an
46 applicant must be either a legal resident of the State, as defined by
47 G.S. 116-143.1(a)(1), or a student whose parent is an active duty
48 member of the armed services, as defined by G.S. 116-143.3(2), who
49 is abiding in this State incident to active military duty at the time the
50 application is submitted, provided the student shares the abode of that
51 parent; eligibility to remain enrolled in the School shall terminate at
52 the end of any school year during which a student becomes a
53 nonresident of the State. The Board of Trustees shall ensure, insofar as
54 possible without jeopardizing admission standards, that an equal
55 number of qualified ~~rising high school juniors~~ applicants is admitted to

1 the program and to the residential summer institutes in science and
 2 mathematics from each of North Carolina's congressional districts. In
 3 no event shall the differences in the number of ~~rising high school~~
 4 ~~junior~~ qualified applicants offered admission to the program from each
 5 of North Carolina's congressional districts be more than two and
 6 one-half percentage points from the average number per district who
 7 are offered admission.

8 (2) School Attendance. – Every parent, guardian, or other person in this
 9 State having charge or control of a child who is enrolled in the School
 10 and who is less than 16 years of age shall cause such child to attend
 11 school continuously for a period equal to the time which the School
 12 shall be in session. No person shall encourage, entice, or counsel any
 13 child to be unlawfully absent from the School. Any person who aids or
 14 abets a student's unlawful absence from the School shall, upon
 15 conviction, be guilty of a Class 1 misdemeanor. The ~~Director~~
 16 Chancellor of the School shall be responsible for implementing such
 17 additional policies concerning compulsory attendance as shall be
 18 adopted by the Board of Trustees, including regulations concerning
 19 lawful and unlawful absences, permissible excuses for temporary
 20 absences, maintenance of attendance records, and attendance
 21 counseling.

22 (3) Student Discipline. – Rules of conduct governing students of the
 23 School shall be established by the Board of Trustees. The ~~Director,~~
 24 Chancellor, other administrative officers, and all teachers,
 25 substitute teachers, voluntary teachers, teacher aides and assistants,
 26 and student teachers in the School may use reasonable force in the
 27 exercise of lawful authority to restrain or correct pupils and maintain
 28 order.

29 **SECTION 9.11.(s)** G.S. 116-235(c) through G.S. 116-235(h) is repealed.

30 **SECTION 9.11.(t)** G.S. 116-236 is repealed.

31 **SECTION 9.11.(u)** G.S. 116-237 is repealed.

32 **SECTION 9.11.(v)** G.S. 116-238 is repealed

33 **SECTION 9.11.(w)** G.S.66-58(c)(3) reads as rewritten:

34 "(c) The provisions of subsection (a) shall not prohibit:

35
 36 (3) The business operation of endowment funds established for the
 37 purpose of producing income for educational purposes; for purposes of
 38 this section, the phrase "operation of endowment funds" shall include
 39 the operation by ~~public postsecondary educational~~ constituent
 40 institutions of The University of North Carolina of campus stores, the
 41 profits from which are used exclusively for awarding scholarships to
 42 defray the expenses of students attending the institution; provided, that
 43 the operation of the stores must be approved by the board of trustees of
 44 the institution, and the merchandise sold shall be limited to educational
 45 materials and supplies, gift items and miscellaneous personal-use
 46 articles. Provided further that, notwithstanding this subsection, profits
 47 from a campus store operated by the endowment of the North Carolina
 48 School of Science and Mathematics are used exclusively for student
 49 activities, athletics, and other programs to enhance student life.
 50 Provided further that sales at campus stores are limited to employees
 51 of the institution and members of their immediate families, to duly
 52 enrolled students of the campus at which a campus store is located and
 53 their immediate families, to duly enrolled students of other campuses
 54 of the University of North Carolina other than the campus at which the
 55 campus store is located, to other campus stores and to other persons

1 who are on campus other than for the purpose of purchasing
 2 merchandise from campus stores. It is the intent of this subdivision
 3 that campus stores be established and operated for the purpose of
 4 assuring the availability of merchandise described in this Article for
 5 sale to persons enumerated herein and not for the purpose of
 6 competing with stores operated in the communities surrounding the
 7 campuses of the University of North Carolina."

8 **SECTION 9.11.(x)** G.S. 66-58(g) is repealed.

9 **SECTION 9.11.(y)** G.S. 126-5(c1)(8) reads as rewritten:

10 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
 11 of this Chapter shall not apply to:

12 ...
 13 (8) Instructional and research staff, physicians, and dentists of The
 14 University of North Carolina-Carolina, including the faculty of the
 15 North Carolina School of Science and Mathematics.

16 ..."

17 **SECTION 9.11.(z)** G.S. 126-5(c1)(11) is repealed.

18 **SECTION 9.11.(aa) RESERVED**

19 **SECTION 9.11.(bb) RESERVED**

20 **SECTION 9.11.(cc)** G.S. 143-597(a) is amended by adding a new
 21 subdivision to read:

22 "(7) The North Carolina School of Science and Mathematics."

23 **SECTION 9.11.(dd)** This section becomes effective July 1, 2007.

24 **EXPAND TUITION WAIVER PROGRAM FOR UNC FACULTY & STAFF**

25 **SECTION 9.12.** G.S. 116-143 reads as rewritten:

26 **"§ 116-143. State-supported institutions of higher education required to charge**
 27 **tuition and fees.**

28 (a) The Board of Governors of the University of North Carolina shall fix the
 29 tuition and fees, not inconsistent with actions of the General Assembly, at the
 30 institutions enumerated in G.S. 116-4 in such amount or amounts as it may deem best,
 31 taking into consideration the nature of each institution and program of study and the
 32 cost of equipment and maintenance; and each institution shall charge and collect from
 33 each student, at the beginning of each semester or quarter, tuition, fees, and an amount
 34 sufficient to pay other expenses for the term.

35 (b) In the event that said students are unable to pay the cost of tuition and
 36 required academic fees as the same may become due, in cash, the said several boards of
 37 trustees are hereby authorized and empowered, in their discretion, to accept the
 38 obligation of the student or students together with such collateral or security as they
 39 may deem necessary and proper, it being the purpose of this Article that all students in
 40 State institutions of higher learning shall be required to pay tuition, and that free tuition
 41 is hereby abolished.

42 (c) Inasmuch as the giving of tuition and fee waivers, or especially reduced rates,
 43 represent in effect a variety of scholarship awards, the said practice is hereby prohibited
 44 except when expressly authorized by statute or by the Board of Governors of the
 45 University of North Carolina; and, furthermore, it is hereby directed and required that
 46 all budgeted funds expended for scholarships of any type must be clearly identified in
 47 budget reports.

48 (d) Notwithstanding the above provision relating to the abolition of free tuition,
 49 the Board of Governors of the University of North Carolina may, in its discretion,
 50 provide regulations under which a full-time faculty member of the rank of full-time
 51 instructor or above, and any full-time staff member of the University of North Carolina
 52 may during the period of normal employment enroll for not more than one course three
 53 courses per semester-year in the University of North Carolina free of charge for tuition,
 54 provided such enrollment does not interfere with normal employment obligations and
 55

1 further provided that such enrollments are not counted for the purpose of receiving
2 general fund appropriations."
3

4 TUTION AND CONTRACTUAL GRANTS FOR TEACHING/NURSING

5 SECTION 9.13.(a) G.S. 116-19 reads as rewritten:

6 "§ 116-19. **Contracts with private institutions to aid North Carolina**
7 **~~students;~~students and licensure students; reporting requirement.**

8 (a) In order to encourage and assist private institutions to continue to educate
9 North Carolina ~~students,~~students and licensure students, the State Education Assistance
10 Authority may enter into contracts with the institutions under the terms of which an
11 institution receiving any funds that may be appropriated pursuant to this section would
12 agree that, during any fiscal year in which such funds were received, the institution
13 would provide and administer scholarship funds for needy North Carolina students and
14 licensure students in an amount at least equal to the amount paid to the institution,
15 pursuant to this section, during the fiscal year. Under the terms of the contracts the State
16 Education Assistance Authority would agree to pay to the institutions, subject to the
17 availability of funds, a fixed sum of money for each North Carolina student and
18 licensure student enrolled at the institutions for the regular academic year, said sum to
19 be determined by appropriations that might be made from time to time by the General
20 Assembly pursuant to this section. Funds appropriated pursuant to this section shall be
21 paid by the State Education Assistance Authority to an institution on certification of the
22 institution showing the number of North Carolina students and licensure students
23 enrolled at the institution as of October 1 of any year for which funds may be
24 appropriated. For purposes of this subsection, "needy North Carolina ~~students-~~students
25 and licensure students" are those eligible students and licensure students who have
26 financial need as determined by the institution under the institutional methodology or
27 the federal methodology as defined by the State Education Assistance Authority. For
28 purposes of this subsection, "institutional methodology" means a need-analysis formula,
29 developed by College Scholarship Service, that determines the student's ~~and or licensure~~
30 student's and his or her family's capacity to pay for postsecondary education each year.

31 (b) The State Education Assistance Authority shall document the number of
32 full-time equivalent North Carolina undergraduate students and full-time and less than
33 full-time licensure students that are enrolled in off-campus programs and the State funds
34 collected by each institution pursuant to G.S. 116-19 for those students. The State
35 Education Assistance Authority shall also document the number of scholarships and the
36 amount of the scholarships that are awarded under G.S. 116-19 to students and licensure
37 students enrolled in off-campus programs. An "off-campus program" is any program
38 offered for degree credit away from the institution's main permanent campus.

39 The State Education Assistance Authority shall include in its annual report to the
40 Joint Legislative Education Oversight Committee the information it has compiled and
41 its findings regarding this program."

42 SECTION 9.13.(b) G.S. 116-20 reads as rewritten:

43 "§ 116-20. **Scholarship and contract terms; base period.**

44 In order to encourage and assist private institutions to educate additional numbers of
45 North Carolinians, the Board of Governors of the University of North Carolina is hereby
46 authorized to enter into contracts within the institutions under the terms of which an
47 institution receiving any funds that may be appropriated pursuant to this section would
48 agree that, during any fiscal year in which such funds were received, the institution
49 would provide and administer scholarship funds for needy North Carolina students and
50 licensure students in an amount at least equal to the amount paid to the institution,
51 pursuant to this section, during the fiscal year. Under the terms of the contracts the
52 Board of Governors of the University of North Carolina would agree to pay to the
53 institutions, subject to the availability of funds, a fixed sum of money for each North
54 Carolina student and licensure student enrolled as of October 1 of any year for which
55 appropriated funds may be available, over and above the number of North Carolina

1 students enrolled in that institution as of October 1, 1997, which shall be the base date
2 for the purpose of this calculation. Funds appropriated pursuant to this section shall be
3 paid by the State Education Assistance Authority to an institution upon recommendation
4 of the Board of Governors of the University of North Carolina and on certification of
5 the institution showing the number of North Carolina students and licensure students
6 enrolled at the institution as of October 1 of any year for which funds may be
7 appropriated over the number enrolled on the base date. In the event funds are
8 appropriated for expenditure pursuant to this section and funds are also appropriated, for
9 the same fiscal year, for expenditure pursuant to G.S. 116-19, students and licensure
10 students who are enrolled at an institution in excess of the number enrolled on the base
11 date may be counted under this section for the purpose of calculating the amount to be
12 paid to the institution, but the same students and licensure students may also be counted
13 under G.S. 116-19, for the purpose of calculating payment to be made under that
14 section."

15 **SECTION 9.13.(c)** G.S. 116-21.1 reads as rewritten:

16 "**§ 116-21.1. Financial aid for North Carolina students and licensure students**
17 **attending private institutions of higher education in North Carolina.**

18 (a) Funds shall be appropriated each fiscal year in the Current Operations
19 Appropriations Act to the Board of Governors of The University of North Carolina for
20 aid to institutions and shall be disbursed in accordance with the provisions of
21 G.S. 116-19, 116-21, and 116-22.

22 (b) The funds appropriated in compliance with this section shall be placed in a
23 separate, identifiable account in each eligible institution's budget or chart of accounts.
24 All funds in the account shall be provided as scholarship funds for needy North Carolina
25 students and licensure students during the fiscal year. Each student and licensure student
26 awarded a scholarship from this account shall be notified of the source of the funds and
27 of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for
28 the tuition grant program as defined in G.S. 116-21.2."

29 **SECTION 9.13.(d)** G.S. 116-21.2 reads as rewritten:

30 "**§ 116-21.2. Legislative tuition grants to aid students and licensure students**
31 **attending private institutions of higher education.**

32 (a) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition
33 to all other financial assistance made available to institutions, or to ~~students~~ persons
34 attending these institutions, there is granted to each full-time North Carolina
35 undergraduate student attending an approved institution as defined in G.S. 116-22, a
36 sum, to be determined by the General Assembly for each academic year which shall be
37 distributed to the full-time undergraduate student as provided by this subsection.

38 (a1) The legislative tuition grant provided by this section shall also be granted to
39 each full-time licensure student who is enrolled in a program intended to result in a
40 license in teaching or nursing at an approved institution. The legislative tuition grant
41 provided by this section shall be awarded on a pro rata basis to any licensure student
42 who is enrolled less than full-time in a program intended to result in a license in
43 teaching or nursing at an approved institution. The legislative tuition grant and prorated
44 legislative tuition grant authorized under this subsection shall be paid for undergraduate
45 courses only.

46 (b) The tuition grants provided for in this section shall be administered by the
47 State Education Assistance Authority pursuant to rules adopted by the State Education
48 Assistance Authority not inconsistent with this section. The State Education Assistance
49 Authority shall not approve any grant until it receives proper certification from an
50 approved institution that the student or licensure student applying for the grant is ~~an~~
51 ~~eligible student.~~ eligible. Upon receipt of the certification, the State Education
52 Assistance Authority shall remit at the times as it prescribes the grant to the approved
53 institution on behalf, and to the credit, of the ~~student.~~ student or licensure student.

54 (c) ~~In~~ Except as provided in subsection (a1) of this section, in the event a student
55 on whose behalf a grant has been paid is not enrolled and carrying a minimum academic

1 load as of the tenth classroom day following the beginning of the school term for which
2 the grant was paid, the institution shall refund the full amount of the grant to the State
3 Education Assistance Authority. If a licensure student on whose behalf a prorated grant
4 has been paid in accordance with subsection (a1) of this section is not enrolled in the
5 undergraduate class as of the tenth classroom day following the beginning of the school
6 term for which the grant was paid, the institution shall refund the full amount of the
7 grant to the State Education Assistance Authority. Each approved institution shall be
8 subject to examination by the State Auditor for the purpose of determining whether the
9 institution has properly certified eligibility and enrollment of students and licensure
10 students and credited grants paid on behalf of ~~the students.~~them.

11 (d) In the event there are not sufficient funds to provide each eligible student or
12 licensure student with a full ~~grant~~grant as provided by subsection (a) of this section or a
13 full or a prorated grant as provided by subsection (a1) of this section:

14 (1) The Board of Governors of The University of North Carolina, with the
15 approval of the Office of State Budget and Management, may transfer
16 available funds to meet the needs of the programs provided by
17 subsections ~~(a)-(a), (a1),~~ and (b) of this section; and

18 (2) Each eligible student and licensure student shall receive a pro rata
19 share of funds then available for the remainder of the academic year
20 within the fiscal period covered by the current appropriation.

21 (e) Any remaining funds shall revert to the General Fund."

22 **SECTION 9.13.(e)** G.S. 116-21.3 reads as rewritten:

23 **"§ 116-21.3. Legislative tuition grant limitations.**

24 (a) For purposes of this section, an "off-campus program" is any program offered
25 for degree credit away from the institution's main permanent campus.

26 (b) No legislative tuition grant funds shall be expended for a program at an
27 off-campus site of a private institution, as defined in G.S. 116-22(1), established after
28 May 15, 1987, unless (i) the private institution offering the program has previously
29 notified and secured agreement from other private institutions operating degree
30 programs in the county in which the off-campus program is located or operating in the
31 counties adjacent to that county or (ii) the degree program is neither available nor
32 planned in the county with the off-campus site or in the counties adjacent to that county.

33 (c) Any member of the armed services, as defined in G.S. 116-143.3(a), abiding
34 in this State incident to active military duty, who does not qualify as a resident for
35 tuition purposes, as defined under G.S. 116-143.1, is eligible for a legislative tuition
36 grant pursuant to this section if the member is enrolled as a full-time
37 ~~student.~~undergraduate student or as a licensure student. The member's legislative tuition
38 grant shall not exceed the cost of tuition less any tuition assistance paid by the member's
39 employer.

40 (d) A legislative tuition grant authorized under ~~G.S. 116-21.2~~ G.S. 116-21.2(a)
41 shall be reduced by twenty-five percent (25%) for any individual student who has
42 completed 140 semester credit hours or the equivalent of 140 semester credit hours."

43 **SECTION 9.13.(f)** G.S. 116-21.4(b) reads as rewritten:

44 "(b) Expenditures made pursuant to G.S. 116-19, 116-20, 116-21.1, or 116-21.2
45 shall not be used for any student or licensure student who:

46 (1) Is incarcerated in a State or federal correctional facility for committing
47 a Class A, B, B1, or B2 felony; or

48 (2) Is incarcerated in a State or federal correctional facility for committing
49 a Class C through I felony and is not eligible for parole or release
50 within 10 years."

51 **SECTION 9.13.(g)** G.S. 116-22 is amended by adding a new subdivision to
52 read:

53 "(1b) 'Licensure student' shall mean a person who:

54 a. Has a bachelors degree;

- 1 **b.** Is enrolled either full-time or less than full-time in a program
2 intended to result in licensure in teaching or nursing;
3 **c.** Attends an institution located in the State; and
4 **d.** Qualifies as a resident of North Carolina in accordance with
5 definitions of residency that may from time to time be adopted
6 by the Board of Governors of The University of North Carolina
7 and published in the residency manual of the Board."
8

9 **NORTH CAROLINA RESEARCH CAMPUS AT KANNAPOLIS**

10 **SECTION 9.14.(a)** The Director of the Office of State Budget and
11 Management shall not release funds appropriated in this act to the Board of Governors
12 of The University of North Carolina for the North Carolina Research Campus (NCRC)
13 at Kannapolis until the President of The University of North Carolina certifies to the
14 Director that The University System and the developers of NCRC have entered into a
15 Memorandum of Understanding concerning the participation in and use of space at the
16 North Carolina Research Campus that is approved by the President.

17 **SECTION 9.14.(b)** The Director of the Office of State Budget and
18 Management shall not release funds appropriated in this act to the North Carolina
19 Community Colleges System Office for the North Carolina Research Campus (NCRC)
20 at Kannapolis until the President of the North Carolina Community College System
21 certifies to the Director that the Community College System and the developers of
22 NCRC have entered into a Memorandum of Understanding concerning the participation
23 in and use of space at the North Carolina Research Campus that is approved by the
24 President.

25 **NC CENTER FOR THE ADVANCEMENT OF TEACHING**

26 **SECTION 9.15.(a)** G.S. 116-74.6 reads as rewritten:

27 "**§ 116-74.6. North Carolina Center for the Advancement of Teaching established;**
28 **powers and duties of trustees.**

29 ~~The sums of five hundred thousand dollars (\$500,000) in fiscal year 1985-86 and~~
30 ~~two million dollars (\$2,000,000) in fiscal year 1986-87 that are appropriated to the~~
31 ~~Board of Governors of The University of North Carolina in Section 2 of the 1985-87~~
32 ~~Current Operations Appropriations Act shall be used to establish the North Carolina~~
33 ~~Center for the Advancement of Teaching at Western Carolina University in Jackson~~
34 ~~County. The Board of Governors of The University of North Carolina established the~~
35 ~~North Carolina Center for the Advancement of Teaching pursuant to Section 74 of S.L.~~
36 ~~1985-479. The Center shall operate under the general auspices be a center of The~~
37 ~~University of North Carolina Board of Governors. It shall be the function of the North~~
38 ~~Carolina Center for the Advancement of Teaching (hereinafter called "NCCAT"),~~
39 ~~through itself or agencies with which it may contract, to provide career teachers with~~
40 ~~opportunities to study advanced topics in the sciences, arts, and humanities and to~~
41 ~~engage in informed discourse, assisted by able mentors and outstanding leaders from all~~
42 ~~walks of life; and otherwise to offer opportunity for teachers to engage in scholarly~~
43 ~~pursuits, through a center dedicated exclusively to the advancement of teaching as an art~~
44 ~~and as a profession.~~

45 The Board of Governors of The University of North Carolina shall establish the
46 North Carolina Center for the Advancement of Teaching Board of Trustees and shall
47 delegate to the Board of Trustees all the powers and duties the Board of Governors
48 considers necessary or appropriate for the effective discharge of the functions of
49 NCCAT."

50 **SECTION 9.15.(b)** G.S. 116-74.7 reads as rewritten:

51 "**§ 116-74.7. Composition of board of trustees; terms; officers.**

52 (a) The NCCAT Board of Trustees shall be composed of the following
53 membership:
54

- 1 (1) Three ex officio members: the President of The University of North
2 Carolina, the State Superintendent of Public Instruction, and the
3 Chancellor of Western Carolina University; University, or their
4 designees;
5 (2) Two members appointed by the General Assembly upon the
6 recommendation of the President Pro Tempore of the Senate;
7 (3) Two members appointed by the General Assembly upon the
8 recommendation of the Speaker of the House of Representatives; and
9 (4) Eight members appointed by the Board of Governors, one from each
10 of the eight educational regions.

11 The appointing authorities shall give consideration to assuring, through Board
12 membership, the statewide mission of NCCAT.

13 (b) Members of the NCCAT Board of Trustees shall serve four-year terms.
14 Members may serve two consecutive four-year terms. The Board shall elect a new
15 chairman every two years from its membership. The Chairman may serve two
16 consecutive two-year terms as chairman.

17 (c) ~~The chief administrative officer of NCCAT shall be a director, who shall be~~
18 ~~appointed by the NCCAT Board of Trustees.~~ an executive director. The Board of
19 Governors of The University of North Carolina shall appoint the executive director and
20 set the compensation of the executive director on the recommendation of the President
21 of The University of North Carolina. The President shall recommend the executive
22 director from a list of not fewer than two names nominated by the NCCAT Board of
23 Trustees.

24 The executive director shall report to and serve at the pleasure of the President of
25 The University of North Carolina; provided that the President shall not terminate the
26 employment of the executive director without prior consultation with the NCCAT
27 Board of Trustees."

28 29 **PRINCIPAL FELLOWS PROGRAM**

30 **SECTION 9.16.(a)** G.S. 116-74.42(c) reads as rewritten:

31 "(c) The Principal Fellows Program shall provide a two-year scholarship loan in
32 the amount of ~~twenty thousand dollars (\$20,000) per year, per recipient, specified in~~
33 subsection (c1) of this section to persons who may be eligible to be selected as school
34 administrators in the public schools of the State by completing a full-time program in
35 school administration in an approved program. Approved programs are those chosen by
36 the Commission from among school administrator programs within the State. No more
37 than 200 principal fellow scholarship loan awards shall be made in each year. The final
38 number of scholarship loan awards per year shall be made in accordance with the Board
39 of Governors' findings concerning the supply and demand of administrators, the State's
40 need for school administrator candidates and within funds appropriated for the
41 scholarship loans. Effective September 1, 1995, and in accordance with school
42 administrator training programs established by the Board of Governors of The
43 University of North Carolina, recipients shall be required to complete an approved
44 full-time academic program during the first year of the scholarship loan program and a
45 full-time internship during the second year of the program. In order to attract fellows as
46 interns, local school administrative units may use all or part of the funds allotted for an
47 assistant principal salary for each intern accepted by the local school administrative
48 unit; however, interns shall not serve as assistant principals."

49 **SECTION 9.16.(b)** G.S. 116-74.42 is amended by adding a new subsection
50 to read:

51 "(c1) The scholarship loan shall be thirty thousand dollars (\$30,000) per participant for
52 the first year of participation. For the second year of participation, the amount of the
53 scholarship loan per participant shall be sixty percent (60%) of the beginning salary for
54 an assistant principal plus four thousand one hundred dollars (\$4,100) for tuition, fees,
55 and books. The Commission may adjust the amount of the scholarship loan specified in

1 this subsection to take into account increases in tuition, fees, and the cost of books,
2 increases in the State principal assistant salary schedule, and changes in the stipend paid
3 to participants in the program during the second year internship."

4 **SECTION 9.16.(c)** This section is effective when it becomes law and
5 applies to recipients of scholarship loans for the 2006-2007 academic year and each
6 subsequent academic year.

7 8 **TEACHER ACADEMY TRANSFER**

9 **SECTION 9.17.(a)** G.S. 116-11(12b) reads as rewritten:

10 "(12b) The Board of Governors of The University of North Carolina shall
11 ~~create a Board of Directors for designate the UNC programs that will~~
12 ~~comprise the UNC Center for School Leadership Development. The~~
13 ~~Board of Governors shall determine the powers and duties of the~~
14 ~~Board of Directors. The Board of Governors shall submit to the~~
15 ~~Governor and the General Assembly a single, unified recommended~~
16 ~~budget for the continued operation and expansion of the programs in~~
17 ~~the Center for School Leadership Development."~~

18 **SECTION 9.17.(b)** For fiscal year 2006-2007, all funds appropriated to The
19 University of North Carolina for the operations of the Principal's Executive Program,
20 the Principal Fellows Program, NC TEACH, the Model Teacher Education Consortium,
21 and the Math Science Education Network shall be combined into a single appropriation
22 for the Center for School Leadership Development; provided that no funds which have
23 been designated for scholarships, scholarship loans, or stipends for teachers or school
24 administrators may be used for an administrative purpose.

25 **SECTION 9.17.(c)** G.S. 116-30.01 is recodified as G.S. 115C-296.4 and
26 reads as rewritten:

27 **"§ 115C-296.4. North Carolina Teacher Academy Board of Trustees.**

28 (a) The North Carolina Teacher Academy Board of Trustees shall establish a
29 statewide network of high quality, integrated, comprehensive, collaborative, and
30 substantial professional development for teachers, which shall be provided through
31 summer programs. This network shall include professional development programs that
32 focus on teaching strategies for teachers assigned to at-risk schools.

33 ~~(b) The Board of Governors of The University of North Carolina shall delegate to~~
34 ~~the Board of Trustees all the powers and duties the Board of Governors considers~~
35 ~~necessary or appropriate for the effective discharge of the functions of the North~~
36 ~~Carolina Teacher Academy.~~

37 (c) The Board of Trustees shall consist of 20 members appointed as follows:

- 38 (1) The Superintendent of Public Instruction or the Superintendent's
39 designee;
- 40 (2) One member of the State Board of Education appointed by the Chair
41 of the State Board;
- 42 ~~(3) One member of the Board of Governors of The University of North~~
43 ~~Carolina appointed by the Chair of the Board of Governors;~~
- 44 ~~(4) The Director of the North Carolina Center for the Advancement of~~
45 ~~Teaching;~~
- 46 (5) Two deans of Schools of One dean of a School of Education from one
47 of the constituent institutions, appointed by the President of The
48 University of North Carolina; Governor;
- 49 (6) Four public school teachers appointed by the General Assembly upon
50 the recommendation of the Speaker of the House of Representatives in
51 accordance with G.S. 120-121, one of whom teaches in preschool
52 through grade 2, one of whom teaches in grades 3 through 5, one of
53 whom teaches in grades 6 through 8, and one of whom teaches on
54 grades 9 through 12;

- 1 (7) Four public school teachers appointed by the General Assembly upon
 2 the recommendation of the President Pro Tempore of the Senate in
 3 accordance with G.S. 120-121, one of whom teaches in preschool
 4 through grade 2, one of whom teaches in grades 3 through 5, one of
 5 whom teaches in grades 6 through 8, and one of whom teaches on
 6 grades 9 through 12;
 7 (8) ~~Two~~ Three public school teachers appointed by the Governor;
 8 (9) One superintendent of a local school administrative unit appointed by
 9 the Governor;
 10 (10) Two public school principals appointed by the Governor; and
 11 (11) The President of the North Carolina Association of Independent
 12 Colleges and Universities, or a designee.
 13 (12) Two at-large members appointed by the Governor.

14 (d) Members appointed prior to September 1, 1995, shall serve until June 30,
 15 1997, except that the terms of members appointed pursuant to subdivisions (6) and (7)
 16 of subsection (d) of this section shall expire June 30, 1995. Subsequent appointments
 17 shall be for four-year terms, except that two of the members appointed by the 1995
 18 General Assembly pursuant to subdivision (6) of subsection (d) of this section and two
 19 of the members appointed by the 1995 General Assembly pursuant to subdivision (7) of
 20 subsection (d) of this section shall serve for two-year terms. The two new members
 21 under subdivision (c)(12) of this section shall serve initial terms beginning January 1,
 22 2007, and ending June 30, 2010. The additional member appointed under subdivision
 23 (c)(8) of this section shall serve a term beginning January 1, 2007, and ending June 30,
 24 2010. The designation of two deans serving under subdivision (c)(5) of this section shall
 25 expire December 31, 2006, and the Governor shall make a new appointment under that
 26 subdivision for a term beginning January 1, 2007, and ending June 30, 2010.

27 Members may serve two consecutive four-year terms.

28 Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy
 29 in a legislative appointment shall be filled in accordance with G.S. 120-122.

30 The Board of Trustees shall elect a new chair every two years from its membership.
 31 The chair may serve two consecutive two-year terms as chair.

32 (e) The chief administrative officer of the Teacher Academy shall be ~~a~~ an
 33 executive director appointed by the Board of Trustees.

34 (f) ~~The Board of trustees shall collaborate and coordinate its programming with~~
 35 ~~NCCAT [North Carolina Center for the Advancement of Teaching]."~~

36 **SECTION 9.17.(d)** The North Carolina Teacher Academy and all resources,
 37 assets, liabilities, operations, and personnel are transferred and shall be located
 38 administratively under the State Board of Education but shall exercise its powers and
 39 duties independently of the State Board of Education through its own board of trustees.
 40 This transfer shall have all of the elements of a Type II transfer, as that term is defined
 41 in G.S. 143A-6(b). Where a conflict arises regarding the transfer, the conflict shall be
 42 resolved by the Governor, and the decision of the Governor shall be final.

43 **SECTION 9.17.(e)** G.S. 126-5 (c1) is amended by adding a new subdivision
 44 to read:

45 "(26) The Executive Director, associate and assistant directors, and instructional staff
 46 of the North Carolina Teacher Academy."

47 **SECTION 9.17.(f)** The North Carolina Teacher Academy shall report
 48 annually on or before October 1 to the Joint Legislative Education Oversight Committee
 49 its expenditures for the prior fiscal year. The first report shall be due no later than
 50 October 1, 2006, covering expenditures for the 2005-2006 fiscal year.

51 **SECTION 9.17.(g)** Subsections (a) and (b) of this section become effective
 52 July 1, 2006. Subsections (c) through (e) of this section become effective January 1,
 53 2007, except that the General Assembly and the Governor may make appointments
 54 prior to that date for terms to begin January 1, 2007. The remainder of this section is
 55 effective when it becomes law.

PROGRESS BOARD FUNDS MUST BE MATCHED

SECTION 9.18. Expansion budget funds appropriated to the Board of Governors of The University of North Carolina in this act for the North Carolina Progress Board shall be matched by funds from private sources on the basis of one dollar (\$1.00) of private funds for every one dollar (\$1.00) of State funds. Unmatched expansion budget funds shall revert to the General Fund at the end of the 2006-2007 fiscal year.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**CHANGE REPORTING DATE OF AGING STUDY COMMISSION**

SECTION 10.1. The third paragraph of Section 10.40A.(p) of S.L. 2005-276 reads as rewritten:

"SECTION 10.40A.(p)

...
The Department shall submit a progress report to the North Carolina Study Commission on Aging and to the Senate Appropriations Committee on Health and Human Services and to the House of Representatives Subcommittee on Health and Human Services on or before ~~April 1, 2006.~~ January 1, 2007.

..."

RATE SETTING FOR CHILD CARING INSTITUTIONS

SECTION 10.2.(a) Section 10.47(b) of S.L. 2005-276 is repealed.

SECTION 10.2.(b) G.S. 110-93.1 is repealed.

SECTION 10.2.(c) G.S. 143B-153(2) reads as rewritten:

"(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

- a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);
- b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;
- c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Department of Juvenile Justice and Delinquency Prevention, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48;
- d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social ~~services;~~ and services. The Commission shall establish standardized rates for child caring institutions. In establishing standardized rates, the Commission shall consider the rate-setting recommendations provided by the Office of the State Auditor; and
- e. For client assessment and independent case management pertaining to the functions of county departments of social

1 services for public assistance programs authorized under
2 paragraph a. of this subdivision."

3 **SECTION 10.2.(d)** The effective date for establishing standardized rates for
4 child caring institutions in this State, as enacted in subsection (c) of this section, shall be
5 July 1, 2007.

6
7 **MEDICAID**

8 **SECTION 10.3.(a)** Section 10.11 of S.L. 2005-276 is repealed.

9 **SECTION 10.3.(b)** Use of Funds, Allocation of Costs, Other
10 Authorizations.

11 (1) Use of Funds. – Funds appropriated in this act for services provided in
12 accordance with Title XIX of the Social Security Act (Medicaid) are
13 for both the categorically needy and the medically needy.

14 (2) Allocation of Nonfederal Cost of Medicaid. – Except as otherwise
15 provided in this act, the State shall pay eighty-five percent (85%); the
16 county shall pay fifteen percent (15%) of the nonfederal costs of all
17 applicable services listed in this section. In addition, the State shall pay
18 eighty-five percent (85%); the county shall pay fifteen percent (15%)
19 of the federal Medicare Part D clawback payments under the Medicare
20 Modernization Act of 2004.

21 (3) Funds for Development and Acquisition of Equipment and Software. –
22 If first approved by the Office of State Budget and Management, the
23 Division of Medical Assistance, Department of Health and Human
24 Services, may use funds that are identified to support the cost of
25 development and acquisition of equipment and software through
26 contractual means to improve and enhance information systems that
27 provide management information and claims processing. The
28 Department of Health and Human Services shall identify adequate
29 funds to support the implementation and first year's operational costs
30 that exceed the currently allocated funds for the new contract for the
31 fiscal agent for the Medicaid Management Information System.

32 (4) Reports. – Unless otherwise provided, whenever the Department of
33 Health and Human Services is required by this section to report to the
34 General Assembly, the report shall be submitted to the House of
35 Representatives Appropriations Subcommittee for Health and Human
36 Services, the Senate Appropriations Committee on Health and Human
37 Services, and the Fiscal Research Division of the Legislative Services
38 Office. Reports shall be submitted on the date provided in the
39 reporting requirement.

40 **SECTION 10.3.(c)** Policy. –

41 (1) Volume purchase plans and single source procurement. – The
42 Department of Health and Human Services, Division of Medical
43 Assistance, may, subject to the approval of a change in the State
44 Medicaid Plan, contract for services, medical equipment, supplies, and
45 appliances by implementation of volume purchase plans, single source
46 procurement, or other contracting processes in order to improve cost
47 containment.

48 (2) Cost-containment programs. – The Department of Health and Human
49 Services, Division of Medical Assistance, may undertake
50 cost-containment programs, including contracting for services,
51 preadmissions to hospitals, and prior approval for certain outpatient
52 surgeries before they may be performed in an inpatient setting.

53 (3) Fraud and abuse. –

54 a. The Division of Medical Assistance, Department of Health and
55 Human Services, may provide incentives to counties that

1 successfully recover fraudulently spent Medicaid funds by
 2 sharing State savings with counties responsible for the recovery
 3 of the fraudulently spent funds.

4 b. For the purposes of investigating and reducing client fraud and
 5 abuse, the Department of Health and Human Services, Division
 6 of Medical Assistance, shall, unless prohibited by federal law,
 7 include in the Medicaid enrollment process the requirement that
 8 the applicant for Medicaid consent to or authorize in writing the
 9 release of the applicant's medical records for the three years
 10 immediately preceding the application for Medicaid benefits.
 11 The Department shall obtain and use information from the
 12 applicant's medical records in a manner and form that complies
 13 with the Health Insurance Portability and Accountability Act of
 14 1996 ("HIPAA"), P.L. 104-191, as amended, and that protects
 15 the privacy of the information as required by other applicable
 16 federal or State law. In addition to fraud and abuse detection,
 17 the Department may require the applicant's consent for other
 18 purposes permitted by HIPAA and required or authorized by
 19 other applicable federal or State law.

20 (4) Medical policy. –

21 Unless required for compliance with federal law, the Department shall
 22 not change medical policy affecting the amount, sufficiency, duration,
 23 and scope of health care services and who may provide services until
 24 the Division of Medical Assistance has prepared a five-year fiscal
 25 analysis documenting the increased cost of the proposed change in
 26 medical policy and submitted it for Departmental review. If the fiscal
 27 impact indicated by the fiscal analysis for any proposed medical policy
 28 change exceeds three million dollars (\$3,000,000) in total
 29 requirements for a given fiscal year, then the Department shall submit
 30 the proposed policy change with the fiscal analysis to the Office of
 31 State Budget and Management and the Fiscal Research Division. The
 32 Department shall not implement any proposed medical policy change
 33 exceeding three million dollars (\$3,000,000) in total requirements for a
 34 given fiscal year unless the source of State funding is identified and
 35 approved by the Office of State Budget and Management. The
 36 Department shall provide the Office of State Budget and Management
 37 and the Fiscal Research Division a quarterly report itemizing all
 38 medical policy changes with total requirements of less than three
 39 million dollars (\$3,000,000).

40 **SECTION 10.3.(d)** Eligibility. – Eligibility for Medicaid shall be
 41 determined in accordance with the following:

42 (1) Medicaid and Work First Family Assistance, Income Eligibility
 43 Standards. – The maximum net family annual income eligibility
 44 standards for Medicaid and Work First Family Assistance and the
 45 Standard of Need for Work First Family Assistance shall be as
 46 follows:

	Categorically Needy-WFFA*		Medically Needy	
	Family	Standard	Families and Children	
	Size	Of Need	Income	
			Level	AA,AB,AD*
52	1	\$4,344	\$2,172	\$2,900
53	2	5,664	2,832	3,900
54	3	6,528	3,264	4,400
55	4	7,128	3,564	4,800

1	5	7,776	3,888	5,200
2	6	8,376	4,188	5,600
3	7	8,952	4,476	6,000
4	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).

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 with the advice of the Advisory Budget Commission.

(2) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

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

(4) Pregnant women and children. – The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

a. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

b. Effective January 1, 2006, infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

c. Effective January 1, 2006, children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

d. Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

e. The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

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. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subparagraphs c. and d. of this subdivision, no resources test shall be applied.

(5) The Department of Health and Human Services shall provide Medicaid coverage for family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eight-five percent (185%) of the federal poverty level.

(6) 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

- (7) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.
- (8) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.
- (9) When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the SSI method.

SECTION 10.3.(e) Services and Payment Bases. – Funds appropriated for Medicaid services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- (1) Hospital inpatient.
- (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.
- (4) Physicians, certified nurse midwife services, nurse practitioners. – Fee schedules as development by the Department of Health and Human Services.
- (5) Community Alternative Program, EPSDT Screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.

- 1 (6) Home health and related services, durable medical equipment. –
2 Payments according to reimbursement plans developed by the
3 Department of Health and Human Services.
- 4 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 5 (8) Rural health clinical services. – Provider-based, reasonable cost;
6 non-provider-based, single-cost reimbursement rate per clinic visit.
- 7 (9) Family planning. – Negotiated rate for local health departments. For
8 other providers see specific services, e.g. hospitals, physicians.
- 9 (10) Independent laboratory and X-ray services. – Uniform fee schedules as
10 developed by the Department of Health and Human Services.
- 11 (11) Ambulatory surgical centers.
- 12 (12) Private duty nursing, clinic services, prepaid health plans.
- 13 (13) Intermediate care facilities for the mentally retarded.
- 14 (14) Chiropractors, podiatrists, optometrists, dentists.
- 15 (15) Limitations on Dental Coverage. – Dental services shall be provided
16 on a restricted basis in accordance with criteria adopted by the
17 Department to implement this subsection.
- 18 (16) Medicare Buy-In. – Social Security Administration premium.
- 19 (17) Ambulance services. – Uniform fee schedules as developed by the
20 Department of Health and Human Services. Public ambulance
21 providers will be reimbursed at cost.
- 22 (18) Optical supplies. – Payment for materials is made to a contractor in
23 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
24 providers are negotiated fees established by the State agency based on
25 industry charges.
- 26 (19) Medicare crossover claims. – The Department shall apply Medicaid
27 medical policy to Medicare claims for dually eligible recipients. The
28 Department shall pay an amount up to the actual coinsurance or
29 deductible or both, in accordance with the State Plan, as approved by
30 the Department of Health and Human Services.
- 31 (20) Physical therapy, occupational therapy, and speech therapy. – Services
32 limited to EPSDT-eligible children. Payments are to be made only to
33 qualified providers at rates negotiated by the Department of Health and
34 Human Services. Physical therapy, occupational therapy, and speech
35 therapy services are subject to prior approval and utilization review.
- 36 (21) Personal care services.
- 37 (22) Case management services. – Reimbursement in accordance with the
38 availability of funds to be transferred within the Department of Health
39 and Human Services.
- 40 (23) Hospice.
- 41 (24) Medically necessary prosthetics or orthotics. – In order to be eligible
42 for reimbursement, providers must be licensed or certified by the
43 occupational licensing board or the certification authority having
44 authority over the provider's license or certification. Medically
45 necessary prosthetics and orthotics are subject to prior approval and
46 utilization review.
- 47 (25) Health insurance premiums.
- 48 (26) Medical care/other remedial care. – Services not covered elsewhere in
49 this section include related services in schools; health professional
50 services provided outside the clinic setting to meet maternal and infant
51 health goals; and services to meet federal EPSDT mandates.
- 52 (27) Pregnancy-related services. – Covered services for pregnant women
53 shall include nutritional counseling, psychosocial counseling, and
54 predelivery and postpartum home visits by maternity care coordinators
55 and public health nurses.

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

16 Limitations on quantity. – The Department of Health and Human
17 Services may establish authorizations, limitations, and reviews for
18 specific drugs, drug classes, brands, or quantities in order to manage
19 effectively the Medicaid pharmacy program, except that the
20 Department shall not impose limitations on brand-name medications
21 for which there is a generic equivalent in cases where the prescriber
22 has determined, at the time the drug is prescribed, that the brand-name
23 drug is medically necessary and has written on the prescription order
24 the phrase "medically necessary". In addition to the entities listed in
25 subsection (a) of this section, the Department shall report to the Joint
26 Legislative Commission on Governmental Operations on
27 authorizations, limitations, and reviews established under this
28 subparagraph, including limitations on monthly brand-name and
29 generic prescriptions as well as restrictions on the total number of
30 medications. The Department shall submit the report not later than
31 May 1, 2006.

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

1 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended,
2 21 U.S.C. § 352(e)(3).

3 Prior authorization. – The Department of Health and Human
4 Services shall not impose prior authorization requirements or other
5 restrictions under the State Medical Assistance Program on
6 medications prescribed for Medicaid recipients for the treatment of: (i)
7 mental illness, including, but not limited to, medications for
8 schizophrenia, bipolar disorder, and major depressive disorder, or (ii)
9 HIV/AIDS.

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

12 a. Services as defined by the Division of Mental Health,
13 Developmental Disabilities, and Substance Abuse Services and
14 approved by the Centers for Medicare and Medicaid Services
15 (CMS) when provided in agencies meeting the requirements of
16 the rules established by the Commission for Mental Health,
17 Developmental Disabilities, and Substance Abuse Services and
18 reimbursement is made in accordance with a State Plan
19 developed by the Department of Health and Human Services
20 not to exceed the upper limits established in federal regulations,
21 and

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

23 1. Licensed or certified psychologists, licensed clinical
24 social workers, certified clinical nurse specialists in
25 psychiatric mental health advanced practice, nurse
26 practitioners certified as clinical nurse specialists in
27 psychiatric mental health advanced practice, licensed
28 psychological associates, licensed professional
29 counselors, licensed marriage and family therapists,
30 certified clinical addictions specialists, and certified
31 clinical supervisors, when Medicaid-eligible children are
32 referred by the Community Care of North Carolina
33 primary care physician, a Medicaid-enrolled psychiatrist,
34 or the area mental health program or local management
35 entity, and

36 2. Institutional providers of residential services as defined
37 by the Division of Mental Health, Developmental
38 Disabilities, and Substance Abuse Services and approved
39 by the Centers for Medicare and Medicaid Services
40 (CMS) for children and Psychiatric Residential
41 Treatment Facility services that meet federal and State
42 requirements as defined by the Department.

43 c. For Medicaid-eligible adults, services provided by licensed or
44 certified psychologists, licensed clinical social workers,
45 certified clinical nurse specialists in psychiatric mental health
46 advanced practice, and nurse practitioners certified as clinical
47 nurse specialists in psychiatric mental health advanced practice,
48 licensed psychological associates, licensed professional
49 counselors, licensed marriage and family therapists, licensed
50 clinical addictions specialists, and licensed clinical supervisors,
51 Medicaid-eligible adults may be self-referred.

52 d. Payments made for services rendered in accordance with this
53 subdivision shall be to qualified providers in accordance with
54 approved policies and the State Plan. Nothing in
55 sub-subdivision b. or c. of this subdivision shall be interpreted

1 to modify the scope of practice of any service provider,
 2 practitioner, or licensee, nor to modify or attenuate any
 3 collaboration or supervision requirement related to the
 4 professional activities of any service provider, practitioner, or
 5 licensee. Nothing in sub-subdivision b. or c. of this subdivision
 6 shall be interpreted to require any private health insurer or
 7 health plan to make direct third-party reimbursements or
 8 payments to any service provider, practitioner, or licensee.

9 e. The Department of Health and Human Services shall not enroll
 10 licensed psychological associates, licensed professional
 11 counselors, licensed marriage and family therapists, licensed
 12 clinical addiction specialists, and licensed clinical supervisors
 13 until all of the following conditions have been met:

- 14 1. The fiscal impact of payments to these qualified
 15 providers has been projected;
- 16 2. Funding for any projected requirements in excess of
 17 budgeted Division of Medical Assistance funding has
 18 been identified from within State funds appropriated to
 19 the Department of Health and Human Services, Division
 20 of Mental Health, Developmental Disabilities, and
 21 Substance Abuse Services to support area mental health
 22 programs or county programs, or identified from other
 23 sources; and
- 24 3. Approval has been obtained from the Office of State
 25 Budget and Management to transfer these State or other
 26 source funds from the Division of Mental Health,
 27 Developmental Disabilities, and Substance Abuse
 28 Services to the Division of Medical Assistance. Upon
 29 approval and implementation, the Department of Health
 30 and Human Services shall, on a quarterly basis, provide a
 31 status report to the Office of State Budget and
 32 Management and the Fiscal Research Division.

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

41 **SECTION 10.3.(f)** Limitations on payments. –

- 42 (1) Payment is limited to Medicaid-enrolled providers that purchase a
 43 performance bond in an amount not to exceed one hundred thousand
 44 dollars (\$100,000) naming as beneficiary the Department of Health
 45 and Human Services, Division of Medical Assistance, or provide to the
 46 Department a validly executed letter of credit or other financial
 47 instrument issued by a financial institution or agency honoring a
 48 demand for payment in an equivalent amount. The Department may
 49 waive or limit the requirements of this paragraph for one or more
 50 classes of Medicaid-enrolled providers based on the provider's dollar
 51 amount of monthly billings to Medicaid or the length of time the
 52 provider has been licensed in this State to provide services. In waiving
 53 or limiting requirements of this paragraph, the Department shall take
 54 into consideration the potential fiscal impact of the waiver or
 55 limitation on the State Medicaid Program. The Department may adopt

1 temporary rules in accordance with G.S. 150B-21.1 as necessary to
2 implement this provision.

- 3 (2) Reimbursement is available for up to 24 visits per recipient per year to
4 any one or combination of the following: physicians, clinics, hospital
5 outpatient, optometrists, chiropractors, and podiatrists. Prenatal
6 services, all EPSDT children, emergency rooms, and mental health
7 services subject to independent utilization review are exempt from the
8 visit limitations contained in this paragraph. Exceptions may be
9 authorized by the Department of Health and Human Services where
10 the life of the patient would be threatened without such additional care.

11 **SECTION 10.3.(g)** Exceptions and limitations on services; authorization of
12 co-payments and other services.

- 13 (1) Exceptions to Service Limitations, Eligibility Requirements, and
14 Payments. – Service limitations, eligibility requirements, and
15 payments bases in this section may be waived by the Department of
16 Health and Human Services, with the approval of the Director of the
17 Budget, to allow the Department to carry out pilot programs for
18 prepaid health plans, contracting for services, managed care plans, or
19 community-based services programs in accordance with plans
20 approved by the United States Department of Health and Human
21 Services or when the Department determines that such a waiver will
22 result in a reduction in the total Medicaid costs for the recipient. The
23 Department of Health and Human Services may proceed with planning
24 and development work on the Program of All-Inclusive Care for the
25 Elderly.
- 26 (2) Co-Payment for Medicaid Services. – The Department of Health and
27 Human Services may establish co-payments up to the maximum
28 permitted by federal law and regulation and required by this subsection
29 in order to achieve reductions in the budget in fiscal years 2005-2006
30 and 2006-2007.
- 31 (3) The Department of Health and Human Services shall provide Medicaid
32 coverage for family planning services to men and women of
33 childbearing age with family incomes equal to or less than one
34 hundred eighty-five percent (185%) of the federal poverty level. Of the
35 funds appropriated in this act to the Division of Medical Assistance,
36 the sum of seven hundred fifty thousand dollars (\$750,000) for the
37 2005-2006 fiscal year shall be used to provide the State-match for the
38 family planning demonstration waiver approved by the federal
39 government.

40 **SECTION 10.3.(h)** Rules, Reports, and Other Matters. –

- 41 (1) Rules. – The Department of Health and Human Services may adopt
42 temporary or emergency rules according to the procedures established
43 in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules
44 are necessary to maximize receipt of federal funds within existing
45 State appropriations, to reduce Medicaid expenditures, and to reduce
46 fraud and abuse. Prior to the filing of these temporary or emergency
47 rules with the Rules Review Commission and the Office of
48 Administrative Hearings, the Department shall consult with the Office
49 of State Budget and Management on the possible fiscal impact of the
50 temporary or emergency rule and its effect on State appropriations and
51 local governments.
- 52 (2) Changes to Medicaid program; reports. – The Department shall report
53 on any change it anticipates making in the Medicaid program that
54 impacts the type or level of service, reimbursement methods, or
55 waivers, any of which require a change in the State Plan or other

1 approval by the Centers for Medicare and Medicaid Services (CMS).
2 The reports shall be provided at the same time they are submitted to
3 CMS for approval. In addition to the entities listed in subsection (a)(4)
4 of this section, the report shall be submitted to the Joint Legislative
5 Health Care Oversight Committee.
6

7 **INFLATIONARY INCREASES FOR MEDICAID PROVIDERS**

8 **SECTION 10.3A.** Effective for the 2006-2007 fiscal year, the Secretary of
9 the Department of Health and Human Services shall develop a plan to allocate funds
10 available for inflationary increases among groups of Medicaid providers in accordance
11 with the interim report from the study of Medicaid provider rates authorized in Section
12 10.11 of this act. Before submitting the proposed allocation plan to the Centers for
13 Medicare/Medicaid Services ("CMS"), and not later than December 15, 2006, the
14 Secretary shall consult with the Joint Legislative Commission on Governmental
15 Operations ("Commission") and present the proposed allocation plan.

16 Based on the Secretary's allocation plan, inflationary increases shall become
17 effective on January 1, 2007, or when State plan amendments have been approved by
18 CMS retroactive to January 1, 2007, whichever occurs last.
19

20 **PROCEDURES FOR CHANGES TO DHHS MEDICAL POLICY**

21 **SECTION 10.4.** Article 2 of Chapter 108A of the General Statutes is
22 amended by adding the following new section to read:

23 **"§ 108A-54.2. Procedures for changing medical policy.**

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

- 26 (1) During the development of new medical coverage policy or
27 amendment to existing medical coverage policy, consult with and seek
28 the advice of the Physician Advisory Group of the North Carolina
29 Medical Society and other organizations the Secretary deems
30 appropriate. The Secretary shall also consult with and seek the advice
31 of officials of the professional societies or associations representing
32 providers who are affected by the new medical coverage policy or
33 amendments to existing medical coverage policy.
- 34 (2) At least 45 days prior to the adoption of new or amended medical
35 coverage policy, the Department shall:
- 36 a. Publish the proposed new or amended medical coverage policy
37 on the Department's Web site;
38 b. Notify all Medicaid providers of the proposed, new, or amended
39 policy; and
40 c. Upon request, provide persons copies of the proposed medical
41 coverage policy.
- 42 (3) During the 45-day period immediately following publication of the
43 proposed new or amended medical coverage policy, accept oral and
44 written comments on the proposed new or amended policy.
- 45 (4) If, following the comment period, the proposed new or amended
46 medical coverage policy is modified, then the Department shall, at
47 least 15 days prior to its adoption:
- 48 a. Notify all Medicaid providers of the proposed policy;
49 b. Upon request, provide persons notice of amendments to the
50 proposed policy; and
51 c. Accept additional oral or written comments during this 15-day
52 period."
53

54 **TRANSFER OF ASSETS REWRITE**

55 **SECTION 10.5.(a)** G.S. 108A-58 is repealed.

1 **SECTION 10.5.(b)** Part 6 of Article 2 of Chapter 108A of the General
2 Statutes is amended by adding the following new section to read:

3 "**§ 108A-58.1. Ineligibility for medical assistance based on transferring assets for**
4 **less than fair market value.**

5 (a) General Rule. – Except as otherwise provided herein, an individual who is
6 otherwise eligible to receive medical assistance under this Part is ineligible for Medicaid
7 coverage and payment for the services specified in subsection (d) during the period
8 specified in subsection (c) if the individual or the individual's spouse transfers an asset
9 for less than fair market value on or after the "lookback date" specified in subsection
10 (b).

11 (b) Lookback Date. –

12 (1) Except as otherwise provided herein, the lookback date is the date
13 specified in 42 U.S.C. § 1396p(c)(1)(B).

14 (2) Notwithstanding subdivision (1), the lookback date with respect to the
15 medical services specified in subdivision (d)(2) is the date specified in
16 42 U.S.C. § 1396p(c)(1)(B) or February 1, 2003, whichever is later.

17 (c) Penalty Period. – The penalty period for the transfer of assets for less than
18 fair market value is the period specified in 42 U.S.C. § 1396p(c)(1)(D), (E), and (H).

19 (d) Medical Services. –

20 (1) In the case of an institutionalized individual, the transfer of assets
21 penalty applies with respect to nursing facility services, a level of care
22 in any institution equivalent to that of nursing facility services, and to
23 home- or community-based services furnished under the State's
24 Community Alternatives Program waiver pursuant to 42 U.S.C. §
25 1396n(c) or (d).

26 (2) In the case of a noninstitutionalized individual, the transfer of assets
27 penalty applies with respect to home health services and personal care
28 services as defined in 42 U.S.C. § 1396d(a)(7) and (24) and, to the
29 extent permitted by federal law, such other long-term care services
30 specified by rules adopted by the Department of Health and Human
31 Services pursuant to subsection (k) of this section.

32 (e) Assets. – Assets are the income and resources of an individual or the
33 individual's spouse (including the individual's or spouse's home) as defined in 42 U.S.C.
34 § 1396p(h) and 42 U.S.C. § 1396p(c)(1)(G), (I), and (J).

35 (f) Fair Market Value and Uncompensated Value. –

36 (1) The fair market value of an asset is the value (minus any valid and
37 legally enforceable liens, mortgages, and encumbrances against the
38 asset) that would have been received if the asset had been sold for
39 good and valuable consideration at the prevailing market price at the
40 time the asset was transferred. In the case of real or personal property
41 that is taxable under Subchapter II of Chapter 105 of the General
42 Statutes, there is a rebuttable presumption that the fair market value of
43 the property is its most recent value as ascertained under Subchapter II
44 of Chapter 105 of the General Statutes (minus any valid and legally
45 enforceable liens, mortgages, and encumbrances against the property).

46 (2) The uncompensated value of an asset is its fair market value minus the
47 amount of good and valuable consideration received in exchange for
48 the asset's transfer.

49 (g) Individual. – An individual is a person who applies for or is receiving medical
50 assistance under this Part regardless of whether the person was, at the time an asset was
51 transferred, a Medicaid applicant or recipient. The term "individual" also includes an
52 individual's legal representative, anyone acting at the individual's direction or request,
53 and any person, agency, or court acting lawfully on behalf of the individual.

54 (h) Institutionalized and Noninstitutionalized Individuals. –

- 1 (1) An institutionalized individual is an individual who meets the criteria
2 set forth in 42 U.S.C. § 1396p(h)(3), regardless of whether the
3 individual was institutionalized at the time an asset was transferred.
- 4 (2) A noninstitutionalized individual is any individual who (i) is not an
5 institutionalized individual, (ii) is an aged, blind, or disabled person
6 who is categorically or medically needy pursuant to 42 C.F.R. § 120 or
7 a qualified Medicare beneficiary as defined in 42 U.S.C. §
8 1396d(p)(1), and (3) is not eligible for medical assistance under this
9 Part based on his or her eligibility for an optional State supplement
10 pursuant to 42 C.F.R. § 435.232.
- 11 (i) Exceptions. –
- 12 (1) This section does not apply if an individual establishes by the greater
13 weight of the evidence that the transfer was exclusively for some
14 purpose other than establishing or retaining eligibility for medical
15 assistance under this Part.
- 16 (2) This section does not apply to any transfer specified in 42 U.S.C. §
17 1396p(c)(2)(A), (B), (C)(i), or (C)(iii).
- 18 (j) Application to Life Estates and Income Producing Real Property. – The
19 Department of Health and Human Services may apply federal transfer of assets policies
20 in accordance with this section to (i) life estates purchased by or on behalf of the
21 recipient, and (ii) to real property excluded as "income producing", tenancy-in-common,
22 or as nonhomesite property made "income producing." The transfer of assets policy
23 shall apply only to an institutionalized individual or the individual's spouse, as defined
24 in subsection (h) of this section. The Department shall exclude from countable resources
25 any life estate in real property that is in the recipient's home and is measured by the
26 recipient's life. Federal transfer of assets policies applied to income producing real
27 property shall become effective not earlier than October 1, 2001. Federal transfer of
28 assets policies applied to real property excluded as tenancy-in-common, or as
29 nonhomesite property made income producing in accordance with this subsection, shall
30 become effective not earlier than October 1, 2005.
- 31 (k) Hardship Waiver. – The Department of Health and Human Services shall
32 waive a transfer of assets penalty that has been imposed or is imposable under this
33 section if the Department determines that imposition of the penalty would create an
34 undue hardship.
- 35 (l) Rules and Compliance with Federal Law. –
- 36 (1) This section shall be interpreted and administered consistently with
37 governing federal law, including 42 U.S.C. § 1396p(c).
- 38 (2) The Department of Health and Human Services shall determine and
39 publish at least annually the average monthly cost of nursing facility
40 services for private patients that will be used in determining the length
41 of a penalty period under this section.
- 42 (3) The Department of Health and Human Services shall provide for a
43 hardship waiver process in accordance with 42 U.S.C. §
44 1396p(c)(2)(D).
- 45 (4) The Department of Health and Human Services may adopt
46 administrative rules that are necessary and appropriate to implement
47 this section or the requirements of 42 U.S.C. § 1396p(c) or other
48 federal laws governing the transfer of assets and Medicaid eligibility."

50 **MEDICAID DUALY ELIGIBLE TO ENROLL IN MEDICARE PARTS B AND**
51 **D**

52 **SECTION 10.6.** G.S. 108A-55.1 reads as rewritten:

53 **"§ 108A-55.1. Medicare enrollment required.**

54 The Department shall require State Medical Assistance Program recipients who
55 qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social

1 Security Act, in order to pay medical expenditures that qualify for payment under
2 Medicare ~~Part B, Parts B and D~~, except that enrollment in Part D is not required if the
3 recipient has creditable prescription drug coverage as defined by federal law.

4 Failure to enroll in Medicare shall result in nonpayment of these expenditures under
5 the State Medical Assistance Program. A provider may seek payment for services from
6 Medicaid enrollees who are eligible for but not enrolled in Medicare ~~Part B, Parts B and~~
7 D."

9 **MEDICAID RESERVE FUND TRANSFER**

10 **SECTION 10.7.(a)** Of the funds transferred to the Department of Health and
11 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
12 three million dollars (\$53,000,000) for the 2006-2007 fiscal year shall be allocated as
13 prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the
14 prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue
15 funding, these funds shall replace the reduction in general revenue funding effected in
16 this act. The Department may use funds in the Medicaid Trust Fund and not
17 appropriated by law for other purposes to fund the settlement of the Disproportionate
18 Share Hospital payment audit issues between the Department of Health and Human
19 Services and the federal government related to fiscal years 1997-2002.

20 **SECTION 10.7.(b)** Of the funds transferred to the Department of Health and
21 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of five
22 million four thousand five hundred four dollars (\$5,004,504) for the 2006-2007 fiscal
23 year shall be allocated as prescribed by G.S. 143-23.2(b) for the implementation of the
24 Medicaid Management Information System (MMIS).

26 **PILOT PROJECTS TO CONTROL COST AND IMPROVE QUALITY OF 27 CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS**

28 **SECTION 10.7A.(a)** Section 10.17.(a) of S.L. 2005-276 reads as rewritten:

29 **"SECTION 10.17.(a)** The Department of Health and Human Services shall expand
30 the scope of Community Care of NC care management model to recipients of Medicaid
31 and dually eligible individuals with a chronic condition and long-term care needs. In
32 expanding the scope, the Department shall focus on the Aged, Blind, and Disabled, and
33 CAP-DA populations for improvement in management, cost-effectiveness, and local
34 coordination of services through Community Care of NC and in collaboration with local
35 providers of care. The Department shall target personal care services, private duty
36 nursing, home health, durable medical equipment, ancillary professional services,
37 specialty care, residential services, including skilled nursing facilities, home infusion
38 therapy, pharmacy, and other services determined target-worthy by the Department.
39 The Department shall pilot communitywide initiatives and shall expand statewide
40 successful models. The initiatives may include one or more pilot projects to control
41 costs and improve quality of care for the aged, blind, and disabled recipients of
42 Medicaid."

43 **SECTION 10.7A.(b)** Section 10.14 of S.L. 2005-276 reads as rewritten:

44 **"SECTION 10.14.** The Department of Health and Human Services may use not
45 more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not more
46 than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid funds
47 budgeted for program services to support the cost of administrative activities when
48 cost-effectiveness and savings are demonstrated. The funds shall be used to support
49 activities that will contain the cost of the Medicaid Program, including contracting for
50 services or hiring additional staff, hiring additional staff, or providing grants
51 through the Office of Rural Health and Community Care to plan, develop, and
52 implement cost-containment programs.

53 Medicaid cost-containment activities may include prospective reimbursement
54 methods, incentive-based reimbursement methods, service limits, prior authorization of
55 services, periodic medical necessity reviews, revised medical necessity criteria, service

1 provision in the least costly settings, plastic magnetic stripped Medicaid identification
2 cards for issuance to Medicaid enrollees, fraud detection software or other fraud
3 detection activities, technology that improves clinical decision making, credit balance
4 recovery and data mining services, and other cost-containment activities. Funds may be
5 expended under this section only after the Office of State Budget and Management has
6 approved a proposal for the expenditure submitted by the Department. Proposals for
7 expenditure of funds under this section shall include the cost of implementing the
8 cost-containment activity and documentation of the amount of savings expected to be
9 realized from the cost-containment activity. The Department shall provide a copy of
10 proposals for expenditures under this section to the Fiscal Research Division."
11

12 REQUIRED DATA SHARING BY PRIVATE HEALTH INSURERS

13 SECTION 10.8. Part 1 of Article 50 of Chapter 58 of the General Statutes is
14 amended by adding the following new section to read:

15 "§ 58-50-46. Insurers to provide certain information to Department of Health and 16 Human Services.

17 (a) As used in this section, the terms:

18 (1) 'Department' means the Department of Health and Human Services.

19 (2) 'Division' means the Division of Medical Assistance of the Department
20 of Health and Human Services.

21 (3) 'Health insurer' includes self-insured plans, group health plans (as
22 defined in section 607(1) of the Employee Retirement Income Security
23 Act of 1974, [29 USC Section 1167(1)], service benefit plans,
24 managed care organizations, or other parties that are, by statute,
25 contract, or agreement, legally responsible for payment of a claim for a
26 health care item or service as a condition of doing business in the
27 State.

28 (4) 'Medical assistance' means medical assistance benefits provided under
29 the State Medical Assistance Plan.

30 (b) Health insurers, and pharmacy benefit managers regulated as third-party
31 administrators under Article 56 of Chapter 58 of the General Statutes, shall provide,
32 with respect to individuals who are eligible for, or are provided, medical assistance,
33 upon request of the Division, information to determine during what period the
34 individual or the individual's spouse or dependents may be (or may have been) covered
35 by a health insurer and the nature of the coverage that is or was provided by the health
36 insurer (including the name, address, and identifying number of the plan) in a manner
37 prescribed by the Division. Notwithstanding any other provision of law, every insurer
38 issuing a health benefit plan shall provide, not more frequently than twelve times in a
39 year and at no cost, to the Department of Health and Human Services, upon its request,
40 information, including automated data matches conducted under the direction of the
41 Department of Health and Human Services, Division of Medical Assistance, as
42 necessary to (i) identify individuals covered under the insurer's health benefit plans who
43 are also recipients of medical assistance; (ii) determine the period during which the
44 individual or the individual's spouses or the individual's dependents may be or may have
45 been covered by the health benefit plan; and (iii) determine the nature of the coverage.
46 To facilitate the Division in obtaining this and other related information, every health
47 insurer shall:

48 (1) Cooperate with the Division to determine whether a named individual
49 who is a recipient of medical assistance may be covered under the
50 insurer's health benefit plan and eligible to receive benefits under the
51 health benefit plan for services provided under the State Medical
52 Assistance Plan.

53 (2) Respond to the request for information within 90 working days after
54 receipt of written proof of loss or claim for payment for health care

- 1 services provided to a recipient of medical assistance who is covered
2 by the insurer's health benefit plan.
- 3 (3) Accept the Division's right of recovery and the assignment to the
4 Division of any right of an individual or other entity to payment from
5 the party for an item or service for which payment has been made
6 under the State Medical Assistance Plan.
- 7 (4) Respond to any inquiry by the Division regarding a claim for payment
8 for any health care item or service that is submitted not later than three
9 years after the date of the provision of the health care item or service.
- 10 (5) Agree not to deny a claim submitted by the Division solely on the
11 basis of the date of submission of the claim, the type of format of the
12 claim form, or a failure to present property documentation at the
13 point-of-sale that is the basis of the claim, if:
- 14 a. The claim is submitted by the Division within the three-year
15 period beginning on the date on which the item or service was
16 furnished; and
- 17 b. Any action by the Division to enforce its rights with respect to
18 such claim is commenced within six years of the Division's
19 submission of the claim.
- 20 (c) An insurer that complies with this section shall not be liable on that account
21 in any civil or criminal actions or proceedings."

TICKET TO WORK EFFECTIVE DATE CHANGE

22
23 **SECTION 10.9.(a)** Section 10.18(c) of S.L. 2005-276 reads as rewritten:

24 "SECTION 10.18.(c) Subsection (b) of this section becomes effective July 1, 2006.
25 Subsection (a) of this section becomes effective ~~January 1, 2007, or within 30 days after~~
26 ~~the date on which the MMIS becomes operational, as determined by the Department of~~
27 ~~Health and Human Services, whichever occurs later. July 1, 2007.~~

28 Client enrollment shall begin not later than six months from the date subsection (a)
29 becomes effective. The remainder of this section is effective when it becomes law."

30 **SECTION 10.9.(b)** The Department of Health and Human Services shall
31 study and develop a plan for the implementation of the Ticket to Work Program. The
32 Department shall report to the Senate Appropriations Committee on Health and Human
33 Services, the House of Representatives Appropriations Subcommittee on Health and
34 Human Services, and the Fiscal Research Division not later than March 1, 2007, on the
35 results of its study. The report shall include what system changes need to be made to
36 implement the Ticket to Work Program, how soon the changes can be made, and an
37 analysis of the five-year fiscal impact of the Program.
38
39

MEDICAID/HEALTH CHOICE DENTAL ADMINISTRATIVE SERVICES STUDY

40 **SECTION 10.9A.** The Department of Health and Human Services, Division
41 of Medical Assistance, shall study the costs and benefits of implementing a carve-out of
42 dental administrative services provided by third-party administrators for Medicaid and
43 NC Health Choice recipients. In conducting the study, the Division shall review the
44 experiences of other states using carve-out for administrative services and the likelihood
45 that a carve-out will increase the number of dentists willing to serve Medicaid and NC
46 Health Choice recipients. The Department of Health and Human Services shall report its
47 findings and recommendations and shall include in the report a comparison of what
48 Medicaid and SCHIP dental programs in other states have done or are doing to increase
49 the number of Medicaid and SCHIP recipients accessing dental care. The Department
50 of Health and Human Services shall submit the report to the House of Representatives
51 Appropriations Committee on Health and Human Services, the Senate Appropriations
52 Committee on Health and Human Services, and the Fiscal Research Division of the
53 Legislative Services Office not later than March 1, 2007.

1
2 **EXTEND EFFECTIVE DATE ON CHANGES TO LIENS ON REAL**
3 **PROPERTY FOR PURPOSES OF ESTATE RECOVERY UNDER**
4 **MEDICAID**

5 **SECTION 10.9B.** Section 10.21C(c) of S.L. 2005-276, as amended by
6 Section 16 of S.L. 2005-345, reads as rewritten:

7 "**SECTION 10.21C.(c)** This section becomes effective July 1, ~~2006~~,2007, and
8 applies to recipients of medical assistance on or after that date."
9

10 **PILOT PROGRAM TO EVALUATE USE OF TELEMONITORING**
11 **EQUIPMENT IN HOME CARE SERVICES**

12 **SECTION 10.9C.** The Department of Health and Human Services, Division
13 of Medical Assistance, may implement a pilot program to evaluate the use of
14 telemonitoring equipment in home care services and community-based long-term care
15 services. The pilot program may be implemented by October 1, 2006, and shall
16 evaluate the use of telemonitoring equipment as a tool to improve the health of home
17 care clients and community-based long-term care clients through increased monitoring
18 and responsiveness, and resulting in increased stabilization rates. The evaluation shall
19 include a representative number of older adults. Not later than July 1, 2007, the
20 Department shall report to the House of Representatives Appropriations Subcommittee
21 on Health and Human Services, the Senate Appropriations Committee on Health and
22 Human Services, the Fiscal Research Division, and the North Carolina Study
23 Commission on Aging on the implementation of the pilot program and its findings and
24 recommendations on the cost-effectiveness of telemonitoring and the benefits to
25 individuals and health care providers.

26 **DHHS TO STUDY STRATEGIES TO OFFSET THE COST TO PHARMACISTS**
27 **OF PROVIDING SERVICES TO MEDICAID RECIPIENTS ENROLLED IN**
28 **MEDICARE PART D**

29 **SECTION 10.9D.** The General Assembly recognizes the critical need for
30 pharmacy management services to Medicaid recipients enrolled in Medicare Part D. In
31 light of the additional costs to pharmacists that provide pharmacy services to Medicaid
32 recipients enrolled in Medicare Part D, and in light of the fact that federal law does not
33 provide federal matching funds under the Medicaid program for these services, the
34 Department of Health and Human Services shall study strategies for assisting
35 pharmacists in providing these services to Medicaid recipients enrolled in Medicare Part
36 D. In studying the strategies, the Department shall specifically address the special
37 circumstances of pharmacists that provide pharmacy services to long-term care
38 facilities. Among the strategies to be considered are those that address pharmacies
39 adversely affected by the additional costs such that they may remain in business and
40 thus continue to provide pharmacy services throughout the State. As part of this effort,
41 the Department shall also assess the impact of the Deficit Reduction Act of 2005 on the
42 payment for generic drugs under the Medicaid Program. The Department shall report its
43 findings and recommended strategies to the House of Representatives Appropriations
44 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
45 Health and Human Services, and the Fiscal Research Division not later than April 1,
46 2007.

47 **ONE-TIME CAP ON MEDICAID COUNTY SHARE**

48 **SECTION 10.9E.(a)** It is the intent of the General Assembly to provide
49 sufficient funds for one-time assistance to counties with respect to the county share of
50 the nonfederal share of Medical Assistance payments for the 2006-2007 fiscal year. To
51 this end, the General Assembly estimates that the cost of the State maintaining the
county share of the nonfederal share of Medical Assistance payments, excluding

1 administrative costs, at the 2005-2006 level will not exceed twenty-seven million four
2 hundred thousand dollars (\$27,400,000) for the 2006-2007 fiscal year.

3 **SECTION 10.9E.(b)** Notwithstanding any other provision of law to the
4 contrary and subject to the limitations in subsection (d) of this section, each county's
5 portion of the nonfederal share of Medical Assistance payments, excluding
6 administrative costs, for the 2006-2007 fiscal year only, shall not exceed the amount
7 paid by the county for the nonfederal share of Medical Assistance payments, excluding
8 administrative costs, for the 2005-2006 fiscal year. In the event a county's portion of
9 the nonfederal share of Medical Assistance payments, excluding administrative costs, is
10 less in fiscal year 2006-2007 than the county share paid for fiscal year 2005-2006, then
11 the county's share for the 2006-2007 fiscal year shall be the lower amount.

12 **SECTION 10.9E.(c)** Of the funds appropriated in this act to the Department
13 of Health and Human Services, Division of Medical Assistance, a sum not to exceed
14 twenty-seven million four hundred thousand dollars (\$27,400,000) in nonrecurring
15 funds for the 2006-2007 fiscal year shall be used to cover the increased cost to the State
16 resulting from the one-time assistance for the county share provided under this section.

17 **SECTION 10.9E.(d)** If fifteen percent (15%) of the nonfederal share of total
18 Medical Assistance payments in the 2006-2007 fiscal year exceeds the amount of the
19 nonfederal share paid by counties in fiscal year 2005-2006 plus the twenty-seven
20 million four hundred thousand dollars (\$27,400,000) in nonrecurring funds appropriated
21 in this act for this purpose, then the county share for 2006-2007 shall be fifteen percent
22 (15%) of the amount by which the nonfederal share of total Medical Assistance
23 payments exceeds the amount appropriated in this act for the one-time assistance plus
24 the amount paid by the counties in the 2005-2006 fiscal year.

25 **SECTION 10.9E.(e)** If less than twenty-seven million four hundred
26 thousand dollars (\$27,400,000) in nonrecurring funds for the 2006-2007 fiscal year is
27 needed for one-time assistance for the county share, then funds remaining shall revert to
28 the General Fund.

29 **SECTION 10.9E.(f)** The Department of Health and Human Services shall
30 continue to track, on a monthly basis, each county's portion of the nonfederal share of
31 Medical Assistance payments, excluding administrative costs, in fiscal year 2006-2007
32 as if the counties were still paying fifteen percent (15%) of all applicable nonfederal
33 costs. The Department shall report on a monthly basis to the Fiscal Research Division
34 each county's portion of the nonfederal share of Medical Assistance payments,
35 excluding administrative costs, as determined by this section.

36 **SECTION 10.9E.(g)** For purposes of this section:

- 37 (1) "Medical Assistance payments" include Medicare Part D payments.
- 38 (2) Medical Assistance payments in fiscal year 2005-2006 represent the
39 sum of 12 county warrants for Medicaid expenditures from June 2005,
40 through May 2006. Medical Assistance payments in fiscal year
41 2006-2007 represent the sum of the 12 warrants for Medicaid
42 expenditures from June 2006, through May 2007.

43 44 **STATE/COUNTY SPECIAL ASSISTANCE**

45 **SECTION 10.9F.(a)** Effective January 1, 2007, the maximum monthly rate
46 for residents in adult care home facilities shall be one thousand one hundred forty-eight
47 dollars (\$1,148) per month per resident.

48 **SECTION 10.9F.(b)** Effective July 1, 2007, the Department of Health and
49 Human Services shall recommend rates for State/County Special Assistance and for
50 Adult Care Home Personal Care Services. The Department may recommend separate
51 rates for residents of special care units. The Department shall recommend rates using
52 appropriate cost modeling methodology and cost reports submitted by adult care homes
53 that receive State/County Special Assistance funds and shall ensure that cost reporting is
54 done for State/County Special Assistance and Adult Care Home Personal Care Services
55 to the same standards as apply to other residential service providers.

1 **SECTION 10.9F.(c)** The Department of Health and Human Services shall
2 assure coordination of the State/County Special Assistance rate and the Adult Care
3 Home Personal Care Services rate with the Division of Aging and Adult Services, the
4 Division of Medical Assistance, and the Office of the Controller.

5
6 **PUBLIC-PRIVATE LONG-TERM CARE PARTNERSHIP PROGRAM**

7 **SECTION 10.10.** The Department of Health and Human Services shall,
8 pursuant to authority under section 1917(b) of the Social Security Act (42 USC §
9 1396p(c)), as amended by Public Law 109-171 effective January 1, 2007, develop a
10 North Carolina Long-Term Care Partnership Program. The purpose of the Program is to
11 reduce future Medicaid costs for long-term care by delaying or eliminating dependence
12 on Medicaid. The Department shall structure and administer the Program in accordance
13 with applicable federal law and guidelines for qualified State long-term care
14 partnerships. The Program, including the treatment of assets for Medicaid eligibility
15 and estate recovery, notwithstanding statutory provisions on treatment of assets and
16 estate recovery to the contrary, shall offer incentives to individuals to ensure against the
17 substantial costs of providing for their long-term care needs. The Department shall
18 submit the proposed Program to the Senate Appropriations Committee on Health and
19 Human Services, the House of Representative Appropriations Subcommittee on Health
20 and Human Services, and the Fiscal Research Division prior to submitting the Program
21 for federal approval of the necessary State Plan amendment. The Program shall not
22 become effective until reviewed in accordance with this section.

23
24 **STUDY MEDICAID PROVIDER RATE INCREASES**

25 **SECTION 10.11.(a)** The Secretary of the Department of Health and Human
26 Services shall study and develop a proposal for an equitable standard for providing
27 inflationary increases and other cost-related increases to service providers in the
28 Medicaid program. The Department shall seek the assistance of external consultants
29 and other appropriate financial experts and affected parties to validate any
30 methodologies used in the development of the standard.

31 **SECTION 10.11.(b)** Of the funds appropriated in this act to the Department
32 of Health and Human Services, Division of Medical Assistance, the sum of one hundred
33 thousand dollars (\$100,000) for the 2006-2007 fiscal year shall be used to support the
34 study. Not later than March 1, 2007, the Department shall report to the Senate
35 Appropriations Committee on Health and Human Services, the House of
36 Representatives Appropriations Subcommittee on Health and Human Services, and the
37 Fiscal Research Division on the findings and recommendations of the study.

38 **SECTION 10.11.(c)** The Department of Health and Human Services, Office
39 of Internal Auditor, and Division of Medical Assistance shall study the reimbursement
40 system for skilled nursing facilities and develop recommendations regarding rebasing
41 the payment rates for the 2006-2007 fiscal year. The Department's shall report its
42 recommendations to the Joint Legislative Commission on Governmental Operations, the
43 Senate Appropriations Committee on Health and Human Services, the House
44 Appropriations Committee on Health and Human Services, and the Fiscal Research
45 Division on or before November 1, 2006.

46
47 **INCREASE HEALTH CARE ACCESS FOR UNINSURED PERSONS**

48 **SECTION 10.12.(a)** The Secretary of the Department of Health and Human
49 Services shall develop a plan to expand health care access for uninsured North
50 Carolinians through the use of public/private partnerships, federal flexibility and
51 resources, and promotion of charity care by health care providers. The goals of the plan
52 are to:

- 53 (1) Aid small businesses that want to provide health care coverage.
- 54 (2) Expand health care coverage for the working uninsured persons.
- 55 (3) Secure all available federal funds to support the program.

1 (4) Promote charity care by health care providers.

2 **SECTION 10.12.(b)** In developing the plan, the Secretary shall:

- 3 (1) Consider findings and recommendations of previous studies on
4 increased access to health care and covering the uninsured to
5 determine their feasibility.
6 (2) Draw on the experience of other states that have successfully increased
7 access to health care and covered the uninsured.
8 (3) Determine waivers necessary to secure federal funding available
9 through 1115 Demonstration Waivers and other federal waivers to
10 cover the uninsured.
11 (4) Explore options such as those available through the Deficit Reduction
12 Act of 2005 (DEFRA) to adjust Medicaid eligibility and benefits to
13 cover the uninsured.
14 (5) Consider the use of existing funding that might be used to leverage
15 additional federal matching funds including certified public
16 expenditures (CPE), and appropriate federal Disproportionate Share
17 Hospital Program (DSH) funds.
18 (6) Pursue an agreement with the Centers for Medicare and Medicaid
19 Services (CMS) to develop a methodology for investing Medicare
20 savings realized from the expansion of the scope of Community Care
21 of North Carolina Program to help fund the plan; and
22 (7) Determine in conjunction with the Office of State Budget and
23 Management the fiscal impact of the plan for a five-year period.

24 **SECTION 10.12.(c)** Of the funds appropriated in this act to the Department
25 of Health and Human Services, Division of Medical Assistance, the sum of one hundred
26 thousand dollars (\$100,000) for the 2006-2007 fiscal year shall be used to support the
27 development of the plan. The proposed plan shall be submitted to the 2007 General
28 Assembly not later than March 1, 2007.
29

30 **HEALTH INFORMATION SYSTEMS (HIS) FUNDS**

31 **SECTION 10.13.(a)** The sum of nine million eight hundred thirty-five
32 thousand seven hundred ninety-five dollars (\$9,835,795) is appropriated from Budget
33 Code 24430, Fund Code 2117, to the Department of Health and Human Services,
34 Division of Public Health, for the 2006-2007 fiscal year. These funds shall be used for
35 the development and implementation of the Health Information Systems (HIS), an
36 initiative that will provide an automated means of capturing, monitoring, reporting, and
37 billing services provided in local health departments, CDSAs, and the State Public
38 Health Lab. The HIS will allow for interfaces to local health departments' own vendor
39 systems and is intended to replace the outdated Health Services Information System.
40 Allocation of these funds is contingent upon full compliance with the reporting
41 requirements of Section 10.59A.(b) of S.L. 2005-276 and the identification of total
42 estimated costs and future funding sources.

43 **SECTION 10.13.(b)** The Department of Health and Human Services,
44 Division of Public Health, shall report on the use of these funds to the House of
45 Representatives Appropriations Subcommittee on Health and Human Services, the
46 Senate Appropriations Committee on Health and Human Services, and the Fiscal
47 Research Division not later than March 1, 2007.
48

49 **EARLY INTERVENTION SERVICES REPORT**

50 **SECTION 10.15.** The Department of Health and Human Services, Division
51 of Public Health, shall report on Early Intervention services. The report shall include
52 the following information for all children, ages birth to three years, entering the Early
53 Intervention system as of July 1, 2006, through December 31, 2006:

- 54 (1) Children served: the number of children referred and the source of
55 referral, the number of children receiving initial evaluations, the

- 1 number of children determined eligible, the number of children
 2 enrolled, and the number of IFS Plans developed.
- 3 (2) Services provided: the number and types of evaluation services,
 4 treatment services, and other services provided and whether the service
 5 was provided by an employee of a Children's Developmental Services
 6 Agency or a private provider.
- 7 (3) Sliding scale participation: the percentage of enrolled children whose
 8 family income falls into each of the following categories: at or below
 9 200% of the federal poverty level, between 250% and 300% of the
 10 federal poverty level, between 350% and 400% of the federal poverty
 11 level, and over 400% of the federal poverty level. These percentages
 12 shall be reported based on gross income and net income after
 13 allowable deductions.

14 The Division of Public Health shall report its findings and recommendations
 15 to the Senate Appropriations Committee on Health and Human Services, the House of
 16 Representative Appropriations Subcommittee on Health and Human Services, and the
 17 Fiscal Research Division not later than February 1, 2007.
 18

COMMUNITY HEALTH CENTER CHANGES

19 **SECTION 10.16.** Section 10.9(a) of S.L. 2005-276 reads as rewritten:

20 "**SECTION 10.9.(a)** Of the funds appropriated in this act for Community Health
 21 Grants, the sum of ~~two five million dollars (\$5,000,000)~~ ~~(\$2,000,000)~~ ~~in recurring funds~~
 22 ~~for the 2005 2006 fiscal year, and the sum of two million dollars (\$2,000,000) in~~
 23 ~~recurring funds for the 2006-2007 fiscal year shall be used for federally qualified health~~
 24 ~~centers, for those health centers that meet the criteria for federally qualified health~~
 25 ~~centers, and for State-designated rural health centers and public health departments and~~
 26 ~~other clinics to:~~ allocated to federally qualified health centers and those health centers
 27 that meet the criteria for federally qualified health centers, State-designated rural health
 28 centers, free clinics, public health departments, and other nonprofit organizations that
 29 provide primary and preventive medical services to uninsured or medically indigent
 30 patients to:

- 31 (1) Increase access to preventative and primary care services by uninsured
 32 or medically indigent patients in existing or new health center
 33 locations;
- 34 (2) Establish community health center services in counties where no such
 35 services exist;
- 36 (3) Create new services or augment existing services provided to
 37 uninsured or medically indigent patients, including primary care and
 38 preventative medical services, dental services, pharmacy, and
 39 behavioral health; and
- 40 (4) Increase capacity necessary to serve the uninsured by enhancing or
 41 replacing facilities, equipment, or technologies.

42 Grant funds may not be used to enhance or increase compensation or other benefits
 43 of personnel, administrators, directors, consultants, or any other parties. Grant funds
 44 may not be used to supplant federal funds traditionally received by federally qualified
 45 community health centers and may not be used to finance or satisfy any existing debt.
 46 ~~The Department of Health and Human Services shall distribute funds on the basis of the~~
 47 ~~availability of other funds for the agency, and also on the basis of incidence of poverty~~
 48 ~~or percentage of indigent clients served.~~ In distributing funds, the Department of Health
 49 and Human Services shall consider the availability of other funds for the agency, the
 50 incidence of poverty or indigent clients served, arrangements for after-hours care, and
 51 collaboration with the applicant's community hospital and other safety net
 52 organizations."
 53

EDUCATION ON PREVENTION OF PRETERM BIRTHS

1 **SECTION 10.17.** Of the funds appropriated in this act to the Department of
2 Health and Human Services, Division of Public Health, the sum of one hundred fifty
3 thousand dollars (\$150,000) for the 2006-2007 fiscal year shall be used to provide
4 education to women on the benefits of progesterone for those who have had preterm
5 births and to purchase medication for eligible minority and low-income women until the
6 medication becomes readily available through the Medicaid Program. The Division of
7 Public Health shall evaluate the impact of the use of these funds and shall share the
8 outcomes of the evaluation with the Division of Medical Assistance, the Senate
9 Appropriations Committee on Health and Human Services, the House of
10 Representatives Appropriations Subcommittee on Health and Human Services, and the
11 Fiscal Research Division.

12
13 **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES**
14 **INITIATIVE**

15 **SECTION 10.18.** Of funds appropriated in this act to the Department of
16 Health and Human Services for the 2006-2007 fiscal year, the sum of two million
17 dollars (\$2,000,000) shall be allocated for the Community-Focused Eliminating Health
18 Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health
19 departments, American Indian tribes, and faith-based and community-based
20 organizations to close the gap in the health status of African-Americans,
21 Hispanics/Latinos, and American Indians as compared to white persons. These grants
22 shall focus on the use of preventive measures to support health lifestyles. The areas of
23 focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted
24 infections, cancer, diabetes, and homicides and motor vehicle deaths. These funds shall
25 also be used to support one FTE in the Department of Health and Human Services to
26 monitor, track, and evaluate grantees' progress in meeting performance-based standards
27 and outcomes established by the Department.

28
29 **AUTHORIZE ONE NEW POSITION FOR HEALTHY CAROLINIANS**
30 **INITIATIVE**

31 **SECTION 10.18A.** The Department of Health and Human Services,
32 Division of Public Health, may use funds appropriated to the Division of Public Health
33 for the Healthy Carolinians Initiative for the 2006-2007 fiscal year to support one new
34 position for the Healthy Carolinians Initiative.

35
36 **CLARIFICATION OF CERTAIN AUDIT REQUIREMENTS**

37 **SECTION 10.19.** G.S. 143B-139.4.(b) reads as rewritten:

38 "(b) A private, nonprofit organization that receives employee assistance or other
39 appropriate services in accordance with subsection (a) of this section, shall document all
40 contributions received, including employee time, supplies, materials, equipment, and
41 physical space. The documentation shall also provide an estimated value of all
42 contributions received as well as any compensation paid to or bonuses received by State
43 employees. This documentation shall be submitted annually to the Secretary of the
44 Department of Health and Human Services in a format approved by the Secretary.
45 Nonprofit organizations with less than five hundred thousand dollars (\$500,000) in
46 annual income shall submit an affidavit or annual audit from the chief officer of the
47 organization providing and attesting to the financial condition of the organization and
48 the expenditure of funds or use of State employee services or other State services,
49 within six months from the nonprofit's fiscal year end. The board of directors of each
50 private, nonprofit organization with an annual income of five hundred thousand dollars
51 (\$500,000) or more shall secure and pay for the services of the State Auditor's Office or
52 employ a certified public accountant to conduct an annual audit of the financial
53 accounts of the organization. The board of directors shall transmit to the Secretary of
54 the Department a copy of the annual financial audit report of the private nonprofit
55 organization. Nothing in this subsection shall be construed to relieve the private,

1 nonprofit organization from other applicable reporting requirements established by
2 law."
3

FUNDS TO ASSIST RURAL HOSPITALS

4 **SECTION 10.19A.** Of the funds appropriated in this act to the Department
5 of Health and Human Services, Office of Rural Health and Community Care, the sum of
6 three million dollars (\$3,000,000) for the 2006-2007 fiscal year shall be allocated to
7 small rural hospitals in need of assistance with the operations and infrastructure
8 maintenance of the hospital. These funds may be used for:

- 9 (1) Capital and operational needs of small rural hospitals. The Office of
10 Rural Health and Community Care shall convene an advisory group to
11 establish criteria for distribution of these funds. The criteria shall
12 include the number of indigent patients served, the number of
13 Medicaid recipients served, the per capita income of the area served by
14 the hospital, and the financial needs of the hospital; and
15 (2) Pilot demonstration programs that address issues critical to the
16 long-term survivability of rural hospitals such as: development of
17 regional care networks for mental health services; restructuring of
18 emergency department and outpatient services; and disease-focused
19 regional referral and care networks. The Office of Rural Health and
20 Community Care shall convene an advisory group to establish criteria
21 for the pilot demonstration projects, distribution of funds, and
22 monitoring and evaluation of the pilot projects.

23 The Office of Rural Health and Community Care shall report on the
24 allocation of funds appropriated under this section to the Senate Appropriations
25 Committee on Health and Human Services, the House of Representatives
26 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
27 Division not later than April 1, 2007.
28

PRIVATE WELL-WATER TESTING FEE

29 **SECTION 10.20.(a)** G.S. 130A-5 is amended by adding the following new
30 subdivision to read:

31 **"§ 130A-5. Duties of the Secretary.**

32 The Secretary shall have the authority:

- 33
34
35 (16) To charge a fee of up to fifty-five dollars (\$55.00) for analyzing
36 private well-water samples sent to the State Laboratory of Public
37 Health by local health departments. The fee shall be imposed only for
38 analyzing samples from newly constructed wells. The fee shall be
39 computed annually by the Director of the State Laboratory of Public
40 Health by analyzing the previous year's testing at the State Laboratory
41 of Public Health, and applying the amount of the total cost of the
42 private well-water testing, minus State appropriations that support this
43 effort. The fee includes the charge for the private well-water panel test
44 kit."

45 **SECTION 10.20.(b)** The Department of Health and Human Services,
46 Division of Public Health, shall use funds available for the 2006-2007 fiscal year to pay
47 for positions for the private well water safety program authorized in the Current
48 Operations and Capital Improvements Appropriations Act of 2006. Funds realized from
49 fees collected during the 2006-2007 fiscal year shall be used to replace available funds
50 authorized under this subsection and allocated for positions authorized for the private
51 well water safety program for the 2006-2007 fiscal year.
52

AIDS DRUG ASSISTANCE PROGRAM

53 **SECTION 10.21.** Section 10.59(a) of S.L. 2005-276 reads as rewritten:

1 "SECTION 10.59.(a) For the 2005-2006 fiscal year and for the 2006-2007 fiscal
 2 year, HIV positive individuals with incomes at or below one hundred twenty five
 3 percent (125%) of the federal poverty level are eligible for participation in ADAP.
 4 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
 5 extended to individuals with incomes above one hundred twenty five percent (125%) of
 6 the federal poverty level. For the 2006-2007 fiscal year, the Department may adjust the
 7 financial eligibility criterion of the ADAP Program up to an amount not exceeding two
 8 hundred fifty percent (250%) of the federal poverty level in order to serve as many
 9 eligible North Carolinians living with HIV disease as possible within existing resources
 10 plus any new federal resources. If the Department raises the eligibility limit above one
 11 hundred twenty-five percent (125%) of the federal poverty level and a waiting list
 12 develops as a result, the Department shall give priority on the waiting list to those
 13 individuals at or below one hundred twenty-five percent (125%) of the federal poverty
 14 level. The Commission for Health Services shall adopt temporary rules in accordance
 15 with G.S. 150B-21.1 to implement adjustments in financial eligibility, including wait-
 16 list priorities, as soon as possible in order to access additional federal funds made
 17 available for ADAP program services."

18
 19 **TECHNICAL CORRECTION TO LICENSURE FEE LIMITS**

20 **SECTION 10.22.** G.S. 131E-267 reads as rewritten:

21 **"§ 131E-267. Fees for departmental review of health care facility construction**
 22 **projects.**

23 The Department of Health and Human Services shall charge a fee for the review of
 24 each health care facility construction project to ensure that project plans and
 25 construction are in compliance with State law. The fee shall be charged on a one-time,
 26 per-project basis, as follows, and shall not exceed ~~twelve thousand five hundred dollars~~
 27 (\$12,500) twenty-five thousand dollars (\$25,000) for any single project:

Institutional Project	Project Fee
Hospitals	\$ 300.00 plus \$0.20/square foot of project space
Nursing Homes	\$ 250.00 plus \$0.16/square foot of project space
Ambulatory Surgical Facility	\$ 200.00 plus \$0.16/square foot of project space
Psychiatric Hospital	\$ 200.00 plus \$0.16/square foot of project space
Adult Care Home	
7 or more beds	\$ 175.00 plus \$0.10/square foot of project space
Residential Project	Project Fee
Family Care Homes	\$ 175.00 flat fee
ICF/MR Group Homes	\$ 275.00 flat fee
Group Homes: 1-3 beds	\$ 100.00 flat fee
Group Homes: 4-6 beds	\$ 175.00 flat fee
Group Homes: 7-9 beds	\$ 225.00 flat fee
Other residential:	
More than 9 beds	\$ 225.00 plus \$0.075/square foot of project space."

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 46 **CLARIFICATION OF FEES FOR MENTAL HEALTH, DEVELOPMENTAL**
 47 **DISABILITIES, AND SUBSTANCE ABUSE SERVICE FACILITIES**

48 **SECTION 10.23.** G.S. 122C-23(h) reads as rewritten:

49 "(h) The Department shall charge facilities licensed under this Chapter ~~that have~~
 50 ~~licensed beds~~ a nonrefundable annual base license fee plus a nonrefundable annual
 51 per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
<u>Facilities (non ICF/MR):</u>	<u>0 beds</u>	<u>\$175.00</u>	<u>\$0</u>
<u>Facilities (non ICF/MR):</u>	<u>6 or fewer</u>		

	<u>1 to 6 beds</u>	\$250.00	\$0
	More than 6 beds	\$350.00	\$12.50
ICF/MR Only:	6 or fewer		
	<u>1 to 6 beds</u>	\$650.00	\$0
	More than 6 beds	\$650.00	\$12.50"

AREA AUTHORITY AND COUNTY PROGRAM CRISIS REGIONS

SECTION 10.26.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five million two hundred fifty thousand dollars (\$5,250,000) for the 2006-2007 fiscal year shall be allocated on a per capita basis and shall be used by area authorities and county programs for operational start-up, capital, or subsidies related to the development and implementation of a plan for a continuum of regional crisis facilities and local crisis services ("crisis plan"). Funds not expended during the 2006-2007 fiscal year shall not revert to the General Fund but shall remain available for the purposes outlined in this section. As used in this section, the term "crisis" includes services for individuals with mental illnesses, developmental disabilities, and substance abuse addictions.

SECTION 10.26.(b) Of the funds appropriated in this act for consultants to aid the Division and LMEs to the Department of Health and Human Services, the sum of two hundred twenty-five thousand dollars (\$225,000) for the 2006-2007 fiscal year shall be used by the Department to enter into one or more personal services contracts to provide technical assistance to Local Management Entities to develop and implement the crisis plans required under subsection (a) of this section. In addition to any other factors the Department determines are relevant when selecting the consultant, the Department shall take into consideration whether an applicant has prior experience evaluating crisis services at a local, regional, and statewide level, prior experience assisting State and local public agencies develop and implement crisis services, and the ability to implement its responsibilities within the time frames established under this section. Funds not expended during the 2006-2007 fiscal year shall not revert to the General Fund but shall remain available for the purposes outlined in this subsection.

SECTION 10.26.(c) No later than August 15, 2006, the Secretary shall designate between 15 and 25 appropriate groupings of LMEs for the development of regional crisis facilities. As used in this section, the term "regional crisis facility" means a facility-based crisis unit that serves an area that may be larger than the catchment area of a single LME, but that provides adequate access to a facility by all consumers in the State. The Secretary shall consult with LMEs in determining the regional groupings. The Secretary shall also take into consideration geographical factors, prior LME groupings and partnerships, and existing community facilities.

SECTION 10.26.(d) With the assistance of the consultant, the area authorities and county programs within a crisis region shall work together to identify gaps in their ability to provide a continuum of crisis services for all consumers and use the funds allocated to them to develop and implement a plan to address those needs. At a minimum, the plan must address the development over time of the following components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis outreach, crisis respite/residential services, crisis stabilization units, 24-hour beds, facility-based crisis, in-patient crisis, and transportation. Options for voluntary admissions to a secured facility must include at least one service appropriate to address the mental health, developmental disability, and substance abuse needs of adults, and the mental health, developmental disability, and substance abuse needs of children. Options for involuntary commitment to a secured facility must include at least one option in addition to admission to a State facility.

If all area authorities and county programs in a crisis region determine that a facility-based crisis center is needed and sustainable on a long-term basis, the crisis region shall first attempt to secure those services through a community hospital or other community facility. If all the area authorities and county programs in the crisis region

1 determine the region's crisis needs are being met, the area authorities and county
2 programs may use the funds to meet local crisis service needs.

3 **SECTION 10.26.(e)** Each LME shall submit its crisis services plan to the
4 Secretary for review no later than March 1, 2007. The plan shall take into consideration
5 and attempt to utilize all other sources of funds in addition to the funds appropriated
6 under this section. The Secretary shall review each plan to determine whether it meets
7 all the requirements of this section. If the Secretary approves the plan, the LME shall
8 receive implementation funding.

9 The Department may allocate up to three percent (3%) of the funds
10 appropriated under subsection (a) of this section to LMEs to assist them with the cost of
11 developing their crisis services plans.

12 **SECTION 10.26.(f)** LMEs shall report monthly to the Department and to the
13 consultant regarding the use of the funds, whether there has been a reduction in the use
14 of State psychiatric hospitals for acute admissions, and any remaining gaps in local and
15 regional crisis services. The consultant and the Department shall report quarterly to the
16 Senate Appropriations Committee on Health and Human Services, the House of
17 Representatives Appropriations Subcommittee on Health and Human Services, the
18 Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental
19 Health, Developmental Disabilities, and Substance Abuse Services regarding each
20 LME's proposed and actual use of the funds appropriated under this section. The
21 reporting requirements under this subsection shall expire July 1, 2008.

22 23 **EXTEND SUNSET FOR FIRST COMMITMENT PILOT PROGRAM**

24 **SECTION 10.27.** S.L. 2003-178 reads as rewritten:

25 **"SECTION 1.** The Secretary of Health and Human Services may, upon request of a
26 phase-one local management entity, waive temporarily the requirements of
27 G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283
28 pertaining to initial (first-level) examinations by a physician or eligible psychologist of
29 individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable,
30 as follows:

- 31 (1) The Secretary has received a request from a phase-one local
32 management entity to substitute for a physician or eligible
33 psychologist, a licensed clinical social worker, a masters level
34 psychiatric nurse, or a masters level certified clinical addictions
35 specialist to conduct the initial (first-level) examinations of individuals
36 meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The
37 waiver shall be implemented on a pilot-program basis. The request
38 from the local management entity shall be submitted as part of the
39 entity's local business plan and shall specifically describe:
- 40 a. How the purpose of the statutory requirement would be better
41 served by waiving the requirement and substituting the
42 proposed change under the waiver.
 - 43 b. How the waiver will enable the local management entity to
44 improve the delivery or management of mental health,
45 developmental disabilities, and substance abuse services.
 - 46 c. How the services to be provided by the licensed clinical social
47 worker, the masters level psychiatric nurse, or the masters level
48 certified clinical addictions specialist under the waiver are
49 within each of these professional's scope of practice.
 - 50 d. How the health, safety, and welfare of individuals will continue
51 to be at least as well protected under the waiver as under the
52 statutory requirement.
- 53 (2) The Secretary shall review the request and may approve it upon
54 finding that:
- 55 a. The request meets the requirements of this section.

- 1 b. The request furthers the purposes of State policy under
2 G.S. 122C-2 and mental health, developmental disabilities, and
3 substance abuse services reform.
- 4 c. The request improves the delivery of mental health,
5 developmental disabilities, and substance abuse services in the
6 counties affected by the waiver and also protects the health,
7 safety, and welfare of individuals receiving these services.
- 8 d. The duties and responsibilities performed by the licensed
9 clinical social worker, the masters level psychiatric nurse, or the
10 masters level certified clinical addictions specialist are within
11 the individual's scope of practice.
- 12 (3) The Secretary shall evaluate the effectiveness, quality, and efficiency
13 of mental health, developmental disabilities, and substance abuse
14 services and protection of health, safety, and welfare under the waiver.
15 The Secretary shall send a report on the evaluation to the Joint
16 Legislative Oversight Committee on Mental Health, Developmental
17 Disabilities, and Substances Abuse Services on or before July 1, 2006.
- 18 (4) The waiver granted by the Secretary under this section shall be in
19 effect ~~for a period not to exceed three years, or the period for which~~
20 ~~the requesting local management entity's business plan is approved,~~
21 ~~whichever is shorter, until October 1, 2007.~~
- 22 (5) The Secretary may grant a waiver under this section to up to five local
23 management entities that have been designated as phase-one entities as
24 of July 1, 2003.
- 25 (6) In no event shall the substitution of a licensed clinical social worker,
26 masters level psychiatric nurse, or masters level certified clinical
27 addictions specialist under a waiver granted under this section be
28 construed as authorization to expand the scope of practice of the
29 licensed clinical social worker, the masters level psychiatric nurse, or
30 the masters level certified clinical addictions specialist.
- 31 (7) The Department shall assure that staff performing the duties are
32 trained and privileged to perform the functions identified in the waiver.
33 The Department shall involve stakeholders including, but not limited
34 to, the North Carolina Psychiatric Association, The North Carolina
35 Nurses Association, National Association of Social Workers, The
36 North Carolina Substance Abuse Professional Certification Board,
37 North Carolina Psychological Association, The North Carolina Society
38 for Clinical Social Work, and the North Carolina Medical Society in
39 developing required staff competencies.
- 40 (8) The local management entity shall assure that a physician is available
41 at all times to provide backup support to include telephone
42 consultation and face-to-face evaluation, if necessary.

43 **SECTION 2.** This act becomes effective July 1, 2003, and expires ~~July 1,~~
44 ~~2006, October 1, 2007.~~"

45
46 **CHANGES TO THE STATE PLAN FOR MENTAL HEALTH,**
47 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

48 **SECTION 10.28.** Independent consultants hired by the Department from
49 funds appropriated in this act for this purpose shall undertake the following tasks:

- 50 (1) Assist DHHS with the strategic planning necessary to develop the
51 revised State Plan as required under G.S. 122C-102. The State Plan
52 shall be coordinated with local and regional crisis service plans by area
53 authorities and county programs.
- 54 (2) Study and make recommendations to increase the capacity of DHHS to
55 implement system reform successfully and in a manner that maintains

- 1 strong management functions by area authorities and county programs
2 at the local level.
- 3 (3) Assist the Division of Mental Health, Developmental Disabilities, and
4 Substance Abuse Services to work with area authorities and county
5 programs to:
- 6 a. Develop and implement five to ten critical performance
7 indicators to be used to hold area authorities and county
8 programs accountable for managing the mental health,
9 developmental disabilities, and substance abuse services
10 system. The performance system indicators shall be
11 implemented no later than six months after the consultant's
12 contract is awarded and in no event later than July 1, 2007.
- 13 b. Standardize the utilization management functions and functions
14 related to person-centered plans.
- 15 c. Implement other uniform procedures for the management
16 functions of area authorities and county programs.
- 17 (4) Provide technical assistance and oversight to private service providers,
18 area authorities, and county programs to ensure that best practices and
19 new services are being delivered with fidelity to the service definition
20 model.
- 21 (5) Provide ongoing and focused technical assistance to area authorities
22 and county programs in the implementation of their administrative and
23 management functions and the establishment and operation of
24 community-based programs. The Secretary shall include in the State
25 Plan a mechanism for monitoring the Department's success in
26 implementing this duty and the progress of area authorities and county
27 programs in achieving these functions.
- 28 (6) Assist the Division with implementing standard forms, contracts,
29 processes, and procedures to be used by all area authorities and county
30 programs with other public and private service providers. These
31 processes and procedures shall include standardized denial codes and a
32 standard policy regarding the coordination of benefits. The
33 independent consultant shall consult with area authorities and county
34 programs regarding the development of these forms, contracts,
35 processes, and procedures. Any document or process developed under
36 this subdivision shall place an obligation upon providers to transmit to
37 area authorities and county programs timely client information and
38 outcome data. The independent consultant shall also recommend
39 language regarding what constitutes a clean claim for purposes of
40 billing. When implementing this subdivision, the independent
41 consultant shall balance the need for area authorities and county
42 programs to exercise discretion in the discharge of their management
43 responsibilities with the need of private service providers for a uniform
44 system of doing business with public entities. The independent
45 consultant shall also (i) identify other areas of standardization that may
46 be implemented without undermining the authority of area authorities
47 and county programs, and (ii) identify and eliminate processes and
48 procedures that are duplicative or result in unnecessary paperwork.

50 **INDEPENDENT- AND SUPPORTIVE-LIVING APARTMENTS INITIATIVE**

51 **SECTION 10.30.** The independent and supportive living apartments for
52 persons with disabilities constructed from funds appropriated in this act for that purpose
53 shall be affordable to persons with incomes at the Supplemental Security Income (SSI)
54 level. If the North Carolina Housing Finance Agency is able to finance the apartments
55 for less than the amount appropriated under this section, any remaining funds, as well as

1 any interest earned on the amount appropriated, may be used to finance additional
2 apartments, group homes, and transitional housing for individuals with disabilities.

3 4 **LOCAL MANAGEMENT ENTITY ADMINISTRATIVE FUNCTIONS**

5 **SECTION 10.32.(a)** The Department of Health and Human Services shall
6 recalculate local management entity (LME) systems management allocations for fiscal
7 year 2006-2007 to include funds for each LME to implement 24-hour,
8 seven-days-a-week screening, triage, and referral, and to review, monitor, and comment
9 on all person-centered plans. The Department shall allocate funds appropriated in this
10 act for this purpose to LMEs to implement the functions described in this section.

11 **SECTION 10.32.(b)** The Secretary shall review and revise the LME systems
12 management cost model to provide adequate funds for LMEs to fully implement the
13 functions outlined in G.S. 122C-115.4(b) as enacted in Section 4 of this act. The
14 Secretary shall consult with the Joint Legislative Committee on Mental Health,
15 Developmental Disabilities, and Substance Abuse Services prior to implementing a
16 revised cost model.

17 For the 2006-2007 fiscal year and until the revised cost model is
18 implemented, the Department shall maintain the 2005-2006 level of funding to LMEs
19 for all LME functions except the following:

- 20 (1) Up to thirteen million three hundred thirty-three thousand four hundred
21 eighty-four dollars (\$13,333,481) for utilization review; and
- 22 (2) Up to twelve million one hundred fifty-six thousand forty-two dollars
23 (\$12,156,042) for claims processing.

24 Any savings of State appropriations realized from the revised cost model
25 shall be reallocated to State-funded services for mental health, developmental
26 disabilities, and substance abuse services.

27 Funds withdrawn for LME administrative functions shall be reallocated to
28 other LMEs to be used to provide mental health, developmental disabilities, and
29 substance abuse services. The ten percent (10%) reduction authorized under G.S.
30 122C-155(a1), as enacted by this section, is in addition to funding limitations of this
31 subsection.

32 **SECTION 10.32.(c)** Effective July 1, 2007, G.S. 122C-115(a) reads as
33 rewritten:

34 "**§ 122C-115. Duties of counties; appropriation and allocation of funds by counties
35 and cities.**

36 (a) A county shall provide mental health, developmental disabilities, and
37 substance abuse services through an area authority or through a county program
38 established pursuant to G.S. 122C-115.1. The catchment area of an area authority or a
39 county program shall contain either a minimum population of at least 200,000 or a
40 minimum of six counties. To the extent this section conflicts with G.S. 153A-77(a), the
41 provisions of G.S. 153A-77(a) control."

42 **SECTION 10.32.(d)** Effective July 1, 2007, G.S. 122C-115 is amended by
43 adding a new subsection to read:

44 "**(a1) The Department of Health and Human Services shall reduce by ten percent**
45 **(10%) annually the administrative funding for area authorities and county programs that**
46 **do not comply with the catchment area requirements of this section.**"

47 **SECTION 10.32.(e)** Effective July 1, 2007, G.S. 122C-115.1(a)(3) is
48 repealed.

49 50 **DISTRIBUTION OF MENTAL HEALTH AND SUBSTANCE ABUSE** 51 **SERVICES FUNDS**

52 **SECTION 10.33A.** Funds appropriated in this act for mental health services,
53 substance abuse services, and crisis services shall be allocated to local management
54 entities such that each local management entity receives a percentage of the total

1 allocation that is equal to that local management entity's percentage of the State's total
2 population that is below the federal poverty level.

3 4 **ACCESS TO PSYCHIATRIC SERVICES**

5 **SECTION 10.33G.** Funds appropriated in this act to increase access to
6 psychiatric services for the 2006-2007 fiscal year may be used for the following
7 purposes:

- 8 (1) To cover non-fee-for-service billable functions that psychiatrists
9 perform, including incentives to increase the participation of
10 psychiatrists in new best-practice models of service such as
11 Community Treatment Teams;
- 12 (2) Designing graduate medical education incentives to influence the
13 training of psychiatrists to produce more psychiatrists interested in
14 working with public sector communities;
- 15 (3) Designing programs for loan forgiveness and recruitment incentives
16 for new psychiatrists serving Medicaid and other State-funded
17 consumers.

18 19 **PSYCHIATRIC HOSPITAL DEBT SERVICE; FUNDS TO SUPPORT** 20 **POSITIONS IN JULIAN KEITH ADATC**

21 **SECTION 10.33H.(a)** G.S. 143-15.3D(c) reads as rewritten:

22 "(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State
23 appropriations realized from the closure of any State psychiatric hospitals that are in
24 excess of the cost of operating and maintaining a new State psychiatric hospital shall not
25 revert to the General Fund but shall be placed in the Trust Fund and shall be used for the
26 purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings
27 realized from the closure of any State psychiatric hospitals shall not revert to the
28 General Fund but shall be used for the payment of debt service on financing contract
29 indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for
30 the construction of a new State psychiatric hospital. Any remainder not needed for this
31 debt service shall be credited to the Department of Health and Human Services to be
32 used only for the purposes of subsections (b)(2) and (b)(3) of this section."

33 **SECTION 10.33H.(b)** The Secretary of Health and Human Services may
34 use funds for the 2006-2007 fiscal year from the Trust Fund for Mental Health,
35 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
36 to support up to 66 new positions in the Julian F. Keith Alcohol and Drug Abuse
37 Treatment Center.

38 **SECTION 10.33H.(c)** Subsections (a) and (c) of this section become
39 effective July 1, 2007. Debt service authorized pursuant to Article 9 of Chapter 142 of
40 the General Statutes for the construction of a new State psychiatric hospital shall be paid
41 with funds from the General Fund.

42 43 **SUBSTANCE ABUSE SERVICES FUNDS FOR TASC**

44 **SECTION 10.33J.** Of the funds appropriated in this act to the Department of
45 Health and Human Services, Division of Mental Health, Developmental Disabilities,
46 and Substance Abuse Services, for substance abuse services, the sum of up to three
47 hundred thousand dollars (\$300,000) shall be allocated to Treatment Accountability for
48 Safer Communities (TASC). These funds shall be allocated to TASC before funds are
49 allocated to local management entities for mental health services, substance abuse
50 services, and crisis services.

51 52 **CHILD CARE ALLOCATION FORMULA**

53 **SECTION 10.34.(a)** Section 10.61(c) of S.L. 2005-276 reads as rewritten:

54 **"SECTION 10.61.(c)** Notwithstanding subsection (a) of this section, the
55 Department of Health and Human Services shall allocate up to twenty-two million

1 dollars (\$22,000,000) in federal block grant funds and State funds appropriated for
2 fiscal years ~~year 2004-2005 and 2005-2006~~2006-2007 for child care services. These
3 funds shall be allocated to prevent termination of child care services. Funds
4 appropriated for specific purposes, including market rate adjustments, may also be
5 allocated by the Department separately from the allocation formula described in
6 subsection (a) of this section."

7 **SECTION 10.34.(b)** Not later than October 1, 2006, the Department shall
8 implement an adjustment to child care market rates, by region, based upon the 2005
9 Child Care Market Rate Study. Rate adjustments shall be implemented as follows:

- 10 (1) For three- to five-star child care center-based rates, counties in Region
11 1 shall receive twenty percent (20%) of the recommended rate
12 adjustment as defined in the 2005 Child Care Market Rate Study.
- 13 (2) For three- to five-star child care center-based rates, counties in
14 Regions 2-5 shall receive thirty-five percent (35%) of the
15 recommended rate adjustment as defined in the 2005 Child Care
16 Market Rate Study.
- 17 (3) For three- to five-star child care home-based rates, all counties shall
18 receive twenty percent (20%) of the recommended rate adjustment as
19 defined in the 2005 Child Care Market Rate Study.

20 21 **CHILD CARE SUBSIDY RATES**

22 **SECTION 10.35.** Section 10.62(e) of S.L. 2005-276 reads as rewritten:

23 "**SECTION 10.62.(e)** A market rate shall be calculated for child care centers and
24 homes at each rated license level for each county and for each age group or age category
25 of enrollees and shall be representative of fees charged to ~~unsubsidized privately paying~~
26 parents for each age group of enrollees within the county. The Division of Child
27 Development shall also calculate a statewide rate and regional market rates for each
28 rated license level for each age category."
29

30 **CHILD CARE FUNDS MATCHING REQUIREMENT**

31 **SECTION 10.36.(a)** Section 10.60 of S.L. 2005-276 reads as rewritten:

32 "**SECTION 10.60.** No local matching funds may be required by the Department of
33 Health and Human Services as a condition of any locality's receiving ~~any State's initial~~
34 allocation of child care funds appropriated by this act unless federal law requires a
35 match. This shall not prohibit any locality from spending local funds for child care
36 services. If the Department reallocates additional funds above twenty-five thousand
37 dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local
38 purchasing agencies must provide a fifteen percent (15%) local match to receive the
39 reallocated funds. Matching requirements shall not apply when funds are allocated
40 because of a disaster as defined in G.S. 166A-4(1)."

41 **SECTION 10.36.(b)** The Department of Health and Human Services shall
42 evaluate the fifteen percent (15%) local matching requirement to determine its effect on
43 local purchasing agencies and whether the matching requirement should be adjusted.
44 The Department shall report its findings and recommendations to the Senate
45 Appropriations Committee on Health and Human Services, the House of
46 Representatives Appropriations Subcommittee on Health and Human Services, and the
47 Fiscal Research Division no later than April 1, 2007.
48

49 **REQUIRE MINIMUM OF SMART START FUNDS FOR CHILD CARE** 50 **SUBSIDY**

51 **SECTION 10.37.** Notwithstanding G.S. 143B-168.15(g), of the thirteen
52 million five hundred thousand dollars (\$13,500,000) appropriated in this act to the
North Carolina Partnership for Children, Inc., for the 2006-2007 fiscal year for local
partnership initiatives, a minimum of thirty percent (30%) of the allocation to each local

1 partnership shall be used for child care subsidy. This percentage shall be in addition to
2 the direct services allocation for the 2006-2007 fiscal year.

3
4 **PART X-A. DEPARTMENT OF AGRICULTURE AND CONSUMER**
5 **SERVICES**

6
7 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS**

8 **SECTION 10A.1.(a)** Section 11.2 of S.L. 2005-276 reads as rewritten:

9 "**SECTION 11.2.** The sum of ~~one million thirty three thousand one hundred dollars~~
10 ~~(\$1,033,100)~~ three hundred sixty-nine thousand six hundred dollars (\$369,600) shall be
11 transferred from the Department of Agriculture and Consumer Services' timber sales
12 capital improvement account in the Department of Agriculture and Consumer Services
13 as such funds become available ~~during the 2005-2006 fiscal year,~~ during the 2006-2007
14 fiscal year and used by the Department for ~~the following capital improvements projects~~
15 ~~at agricultural research stations and research farms:~~

- 16 (1) ~~\$378,000 for improvements at the swine facility at the Cherry~~
17 ~~Research Farm.~~
18 (2) ~~\$285,500 for renovation of dairy facilities at the Cherry Research~~
19 ~~Farm.~~
20 (3) ~~\$369,600 for land acquisition and development at the Tidewater~~
21 ~~Research Station."~~

22 **SECTION 10A.1.(b)** Section 11.3 of S.L. 2005-276 reads as rewritten:

23 "**SECTION 11.3.** From funds ~~received from the sale of timber~~ that are deposited
24 with the State Treasurer pursuant to G.S. 146-30 to the credit of the Department of
25 Agriculture and Consumer Services in a capital improvement account, the sum of
26 ~~twenty thousand dollars (\$20,000)~~ thirty thousand dollars (\$30,000) for the 2006-2007
27 fiscal year shall be transferred to the Department of Agriculture and Consumer Services
28 to be ~~used~~ used, notwithstanding G.S. 146-30, by the Department for its plant
29 conservation program under Article 19B of Chapter 106 of the General Statutes for
30 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
31 searches, and environmental ~~studies.~~ studies and for the management of plant
32 conservation program preserves owned by the Department."

33 **SECTION 10A.1.(c)** Funds shall be transferred from the Department of
34 Agriculture and Consumer Services' timber sales capital improvement account in the
35 Department of Agriculture and Consumer Services as such funds become available and
36 shall be used by the Department for capital improvements to the grounds and facilities
37 at the Eastern North Carolina Agricultural Center at Williamston.

38 **SECTION 10A.1.(d)** Funds transferred pursuant to this section are hereby
39 appropriated.

40
41 **PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

42
43 **CONSERVATION RESERVE ENHANCEMENT PROGRAM**

44 **SECTION 11.1.** Funds appropriated to the Department of Environment and
45 Natural Resources for the 2006-2007 fiscal year for the Division of Soil and Water
46 Conservation for the Conservation Reserve Enhancement Program for acquiring
47 conservation easements and leases or for contracts under the Program shall not revert,
48 but shall remain available for these purposes.

49
50 **GRASSROOTS SCIENCE PROGRAM**

51 **SECTION 11.3.(a)** Section 12.5 of S.L. 2005-276, as amended by Section
52 23 of S.L. 2005-345, reads as rewritten:

53 "**SECTION 12.5.(a)** Of the funds appropriated in this act to the Department of
54 Environment and Natural Resources for the Grassroots Science Program, the sum of
55 three million one hundred ninety-seven thousand seven hundred sixty-two dollars

1 (\$3,197,762) for the 2005-2006 fiscal year and the sum of three million three hundred
 2 thirty-one thousand three hundred thirty-eight dollars (\$3,331,338) for the 2006-2007
 3 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2005-2006	<u>2006-2007</u>
4		
5		
6	Aurora Fossil Museum	\$59,057
7	Cape Fear Museum	\$161,007
8	Carolina Raptor Center	\$112,174
9	Catawba Science Center	\$133,429
10	Colburn Gem and Mineral Museum, Inc. <u>Earth Science</u>	
11	<u>Museum, Inc.</u>	\$74,545
12	Discovery Place	\$662,865
13	Eastern NC Regional Science Center	\$50,000
14	Port Discover: Northeastern North Carolina's	\$50,000
15	Center for Hands-On Science, Inc.	
16	Fascinate-U	\$80,742
17	Granville County Museum Commission,	
18	Inc.–Harris Gallery	\$56,422
19	Greensboro Children's Museum	\$135,076
20	The Health Adventure Museum of Pack	
21	Place Education, Arts and	
22	Science Center, Inc.	\$134,499
23	Highlands Nature Center	\$79,268
24	Imagination Station	\$86,034
25	<u>The Iredell Museums, Inc.</u>	<u>\$61,306</u>
26	Kidsenses	\$50,000
27	Museum of Coastal Carolina	\$74,192
28	<u>The Natural Science Center of</u>	
29	Greensboro <u>Greensboro, Inc.</u>	\$186,354
30	North Carolina Museum of Life	
31	and Science	\$379,826
32	<u>Port Discover: Northeastern North Carolina's</u>	
33	<u>Center for Hands-On Science, Inc.</u>	<u>\$50,000</u>
34	Rocky Mount Children's Museum	\$72,254
35	Schiele Museum of Natural History	
36	<u>and Planetarium, Inc.</u>	<u>\$229,547</u>
37	Sci Works Science Center and	
38	Environmental Park of Forsyth County	\$146,499
39	Western North Carolina Nature Center	\$112,879
40	Wilmington Children's Museum	\$71,093
41		
42	Total	\$3,197,762
43		<u>\$3,331,338</u>

43 **SECTION 12.5.(b)** No later than March 1, 2006, the Department of Environment
 44 and Natural Resources shall report to the Fiscal Research Division all of the following
 45 information for each museum that receives funds under this section:

- 46 (1) The operating budget for the 2004-2005 fiscal year.
- 47 (2) The operating budget for the 2005-2006 fiscal year.
- 48 (3) The total attendance at the museum during the 2005 calendar year.

49 **SECTION 12.5.(c)** No later than March 1, 2007, the Department of Environment
 50 and Natural Resources shall report to the Fiscal Research Division all of the following
 51 information for each museum that receives funds under this section:

- 52 (1) The operating budget for the 2005-2006 fiscal year.
- 53 (2) The operating budget for the 2006-2007 fiscal year.
- 54 (3) The total attendance at the museum during the 2006 calendar year."

1 **SECTION 11.3.(b)** Each museum that receives funds under this section
 2 shall provide to the Department of Environment and Natural Resources and the Fiscal
 3 Research Division a copy of its annual audited financial statement within 30 days of
 4 issuance of this statement and a copy of its most recent IRS Form 990.

5 **SECTION 11.3.(c)** The Department of Environment and Natural Resources,
 6 in consultation with the Fiscal Research Division, shall study the current formula used
 7 to calculate the allocations for members of the Grassroots collaborative and shall report
 8 no later than January 15, 2007, its findings and any recommendations for revising this
 9 formula to be used for the 2007-2009 fiscal biennium to the Appropriations
 10 Subcommittees on Natural and Economic Resources in both the Senate and the House
 11 of Representatives.

12
 13 **INCREASE CERTAIN PUBLIC WATER SYSTEMS ANNUAL OPERATING**
 14 **PERMIT FEES/IMPOSE FEES FOR REVIEW OF ENGINEERING PLANS**
 15 **AND SPECIFICATIONS FOR THE CONSTRUCTION OR ALTERATION**
 16 **OF PUBLIC WATER SYSTEMS**

17 **SECTION 11.7.(a)** G.S. 130A-328 reads as rewritten:

18 **"§ 130A-328. ~~Community~~ Public water system operating permit and permit fee.**

19 (a) No person shall operate a community or non transient non-community water
 20 system who has not been issued an operating permit by the Department. A community
 21 or non transient non-community water system operating permit shall be valid from
 22 January 1 through December 31 of each year unless suspended or revoked by the
 23 Department for cause. The Commission shall adopt rules concerning permit issuance
 24 and renewal and permit suspension and revocation. The annual fees in subsection (b)
 25 shall be prorated on a monthly basis for permits obtained after January 1 of each year.

26 (b) The following fees are imposed for the issuance or renewal of a permit to
 27 operate a community or non transient non-community water system; the fees are based
 28 on the number of persons served by the system:

<u>Number of Persons Served</u>	<u>Fee</u>
100 or fewer	\$150
More than 100 but no more than 500	\$175
More than 500 but no more than 3300	\$300
More than 3300 but no more than 5000	\$450
More than 5000 but no more than 10,000	\$550
More than 10,000 but no more than 50,000	\$650
More than 50,000	\$850
<u>Non Community Water Systems:</u>	
<u>Base Fee:</u>	
<u>Non transient non-community</u>	<u>\$150</u>
<u>Community Water Systems:</u>	
<u>Number of Persons Served</u>	
<u>50 or fewer</u>	<u>\$255</u>
<u>More than 50 but no more than 100</u>	<u>\$270</u>
<u>More than 100 but no more than 200</u>	<u>\$330</u>
<u>More than 200 but no more than 300</u>	<u>\$350</u>
<u>More than 300 but no more than 400</u>	<u>\$385</u>
<u>More than 400 but no more than 500</u>	<u>\$420</u>
<u>More than 500 but no more than 750</u>	<u>\$780</u>
<u>More than 750 but no more than 1000</u>	<u>\$810</u>
<u>More than 1000 but no more than 2000</u>	<u>\$840</u>
<u>More than 2000 but no more than 3000</u>	<u>\$870</u>
<u>More than 3000 but no more than 4000</u>	<u>\$1350</u>
<u>More than 4000 but no more than 5000</u>	<u>\$1460</u>
<u>More than 5000 but no more than 7500</u>	<u>\$1925</u>

1	<u>More than 7500 but no more than 10,000</u>	<u>\$2065</u>
2	<u>More than 10,000 but no more than 25,000</u>	<u>\$2600</u>
3	<u>More than 25,000 but no more than 50,000</u>	<u>\$2925</u>
4	<u>More than 50,000 but no more than 75,000</u>	<u>\$4250</u>
5	<u>More than 75,000 but no more than 100,000</u>	<u>\$4675</u>
6	<u>More than 100,000 but no more than 250,000</u>	<u>\$5100</u>
7	<u>More than 250,000 but no more than 500,000</u>	<u>\$5525</u>
8	<u>More than 500,000</u>	<u>\$5950</u>

9 (c) The following fees are imposed for the review of plans, specifications, and
 10 other information submitted to the Department for approval of construction or alteration
 11 of a public water system. The fees are based on the type of constructions or alteration
 12 proposed:

14	<u>Distribution system:</u>	<u>Fee</u>
15	<u>Construction of water lines, less than 5000 linear feet</u>	<u>\$150</u>
16	<u>Construction of water lines, 5000 linear feet or more</u>	<u>\$200</u>
17	<u>Other construction or alteration to a distribution system</u>	<u>\$75</u>

19	<u>Ground water system:</u>	
20	<u>Construction of a new ground water system or adding a new well</u>	<u>\$200</u>
21	<u>Alteration to an existing ground water system</u>	<u>\$100</u>

23	<u>Surface Water system:</u>	
24	<u>Construction of a new surface water treatment facility</u>	<u>\$250</u>
25	<u>Alteration to an existing surface water treatment facility</u>	<u>\$150</u>
26	<u>Water System Management Plan review</u>	<u>\$75</u>
27	<u>Miscellaneous changes or maintenance not covered above</u>	<u>\$50</u>

28 (d) The Department may charge an administrative fee of up to one hundred fifty
 29 dollars (\$150.00) for failure to pay the permit fee by January 31 of each year.

30 (e) All fees collected under this section shall be applied to the costs of
 31 administering and enforcing this Article."

32 **SECTION 11.7.(b)** The Department of Environment and Natural Resources
 33 may create a schedule for phasing in the new fees added to G.S. 130A-328, as amended
 34 by subsection (a) of this section, over multiple operating permit cycles.

35 **SECTION 11.7.(c)** This section becomes effective January 1, 2007.

36
 37 **PART XII. DEPARTMENT OF COMMERCE**

38
 39 **EMPLOYMENT SECURITY FUNDS**

40 **SECTION 12.1.** Section 13.4 of S.L. 2005-276, as amended by Section 24
 41 of S.L. 2005-345, reads as rewritten:

42 **"SECTION 13.4.(a)** Funds from the Employment Security Commission Reserve
 43 Fund shall be available to the Employment Security Commission to use as collateral to
 44 secure federal funds and to pay the administrative costs associated with the collection of
 45 the Employment Security Commission Reserve Fund surcharge. The total
 46 administrative costs paid with funds from the Reserve in the ~~2005-2006~~-2006-2007
 47 fiscal year shall not exceed two million dollars (\$2,000,000).

48 **SECTION 13.4.(b)** There is appropriated from the Employment Security
 49 Commission Reserve Fund to the Employment Security Commission of North Carolina
 50 the sum of six million three hundred thousand dollars (\$6,300,000) for the
 51 ~~2005-2006~~2006-2007 fiscal year to be used for the following purposes:

- 52 (1) Six million dollars (\$6,000,000) for the operation and support of local
 53 offices.
- 54 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
 55 Information Coordinating Committee to develop and operate an

1 interagency system to track former participants in State education and
2 training programs.

- 3 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
4 Chapter 96 of the General Statutes, which directs the Commission to
5 employ the Common Follow-Up Management Information System to
6 evaluate the effectiveness of the State's job training, education, and
7 placement programs.

8 SECTION 13.4.(c) To the extent that federal funding for the operation and support
9 of local Employment Security Commission offices is decreased for the 2006-2007 fiscal
10 year, there is appropriated from the Employment Security Commission Reserve Fund to
11 the Employment Security Commission of North Carolina funds in a corresponding
12 amount not to exceed one million dollars (\$1,000,000) to replace such funds."
13

14 ONE NORTH CAROLINA FUND

15 SECTION 12.2. Section 13.6 of S.L. 2005-276 reads as rewritten:

16 "SECTION 13.6.(a) Of the funds appropriated in this act to the One North Carolina
17 Fund, the Department of Commerce may use up to three hundred thousand dollars
18 (\$300,000) to cover its expenses in administering the One North Carolina Fund and
19 other economic development incentive grant programs in the ~~2005-2006~~2006-2007
20 fiscal year.

21 SECTION 13.6.(b) Notwithstanding the provisions of G.S. 143B-437.71, of the
22 funds appropriated in this act to the One North Carolina Fund, the Department of
23 Commerce shall allocate one million dollars (\$1,000,000) for the ~~2005-2006~~2006-2007
24 fiscal year to Johnson and Wales University in Charlotte for the purpose of providing
25 financial assistance to the University."
26

27 EXTEND E-NC AUTHORITY SUNSET/E-NC AUTHORITY FUNDS AND 28 REPORTING REQUIREMENTS

29 SECTION 12.3.(a) Section 4 of S.L. 2003-425 reads as rewritten:

30 "SECTION 4. Sections 1 and 2 of this act become effective December 31, 2003,
31 with the e-NC Authority hereby designated as the successor entity of the Rural Internet
32 Access Authority that will dissolve on that date, as provided by Section 5 of S.L.
33 2000-149. The remainder of this act is effective when it becomes law. The e-NC
34 Authority created in this act is dissolved effective ~~December 31, 2006.~~ December 31,
35 2011. This act is repealed effective ~~December 31, 2006.~~ December 31, 2011. Part 2F of
36 Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by
37 this act, are repealed effective ~~December 31, 2006.~~ December 31, 2011."
38

39 SECTION 12.3.(b) Section 13.12 of S.L. 2005-276 reads as rewritten:

40 "SECTION 13.12.(a) Of the funds appropriated in this act to the Rural Economic
41 Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the
42 2005-2006 fiscal year and the sum of ~~twenty million dollars (\$20,000,000)~~nineteen
43 million five hundred thousand dollars (\$19,500,000) for the 2006-2007 fiscal year shall
44 be allocated as follows:

- 45 (1) To continue the North Carolina Infrastructure Program. The purpose of
46 the Program is to provide grants to local governments to construct
47 critical water and wastewater facilities and to provide other
48 infrastructure needs, including technology needs, to sites where these
49 facilities will generate private job-creating investment. At least fifteen
50 million dollars (\$15,000,000) of the funds appropriated in this act for
51 each year of the biennium must be used to provide grants under this
52 Program.
53 (2) To provide matching grants to local governments in distressed areas
54 and equity investments in public-private ventures that will
55 productively reuse vacant buildings and properties, with priority given
to towns or communities with populations of less than 5,000.

- 1 (3) To provide economic development research and demonstration grants.
2

3 **SECTION 13.12.(f)** Of the funds appropriated in this act to the Rural Economic
4 Development Center, Inc., and allocated in subsection (a) of this section, the sum of five
5 hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year ~~and the sum of five~~
6 ~~hundred thousand dollars (\$500,000) for the 2006-2007 fiscal year~~ shall be allocated to
7 the e-NC Authority.

8 The e-NC Authority may contract with other State agencies, The University of North
9 Carolina, the North Carolina Community College System, and nonprofit organizations
10 to assist with program development and the evaluation of program activities.

11 The e-NC Authority shall report to the 2006 General Assembly on the following:

- 12 (1) The activities necessary to be undertaken in distressed urban areas of
13 the State to enhance the capability of citizens and businesses residing
14 in these areas to access the high-speed Internet.
15 (2) An implementation plan for the training of citizens and businesses in
16 distressed urban areas.
17 (3) The technology and digital literacy training necessary to assist citizens
18 and existing businesses to create new technology-based enterprises in
19 these communities and to use the Internet to enhance the productivity
20 of their businesses.

21 The e-NC Authority shall, by January 31, 2006, and quarterly thereafter, report to
22 the Joint Legislative Commission on Governmental Operations on program
23 development and the evaluation of program activities."

24 **SECTION 12.3.(c)** Of the funds appropriated in this act to the Department
25 of Commerce, the sum of five hundred thousand dollars (\$500,000) shall be allocated to
26 the e-NC Authority.

27 The e-NC Authority may contract with other State agencies, The University
28 of North Carolina, the North Carolina Community College System, and nonprofit
29 organizations to assist with program development and the evaluation of program
30 activities.

31 The e-NC Authority shall report to the 2007 General Assembly on the
32 following:

- 33 (1) The activities necessary to be undertaken in distressed urban areas of
34 the State to enhance the capability of citizens and businesses residing
35 in these areas to access high-speed Internet.
36 (2) An implementation plan for the training of citizens and businesses in
37 distressed urban areas.
38 (3) The technology and digital literacy training necessary to assist citizens
39 and existing businesses to create new technology-based enterprises in
40 these communities and to use the Internet to enhance the productivity
41 of their businesses.

42 The e-NC Authority shall, by September 30, 2006, and quarterly thereafter,
43 report to the Joint Legislative Commission on Governmental Operations on program
44 development and the evaluation of program activities.

45 **COUNCIL OF GOVERNMENT FUNDS/ELECTRONIC TRANSFER**

46 **SECTION 12.4.** Section 13.2(c) of S.L. 2005-276 reads as rewritten:

47 **"SECTION 13.2.(c)** Funds appropriated by this section shall be paid by electronic
48 transfer in two equal installments, the first no later than ~~September 1, 2005,~~
49 ~~September~~ 1, 2006, and the second subsequent to acceptable submission of the annual report due to
50 the Joint Legislative Commission on Governmental Operations and the Fiscal Research
51 Division by ~~January 15, 2006,~~ January 15, 2007, as specified in subdivision (e)(2) of this
52 section."
53

54 **ADVANCED VEHICLE RESEARCH CENTER /FUNDS SHALL NOT REVERT**

55

1 **SECTION 12.5.** Section 13.8A of S.L. 2005-276 reads as rewritten:
2 **"SECTION 13.8A.(a)** There is established in the Office of the State Budget and
3 Management a reserve to be known as the Advanced Vehicle Research Center Reserve.
4 Funds from the Reserve shall not be expended or transferred except in accordance with
5 the provisions of this section.

6 **SECTION 13.8A.(b)** Of the funds appropriated by this act to the Advanced Vehicle
7 Research Center ~~Reserve, Reserve, and the funds available in the Reserve on June 30,~~
8 2006, as provided in subsections (g) and (h) of this section, the Office of State Budget
9 and Management ~~may may, subject to subsection (b1) of this section,~~ transfer in up to
10 four installments the sum of ~~seven million five hundred thousand dollars (\$7,500,000)~~
11 eleven million two hundred fifty thousand dollars (\$11,250,000) for the
12 ~~2005-2006~~2006-2007 fiscal year to the Department of Commerce to be allocated to the
13 Advanced Vehicle Research Center of North Carolina, Inc., (Center) when the Office of
14 State Budget and Management, in consultation with the Department of Commerce,
15 determines the Center has completed goals and projects consistent with the Center's
16 business plan. The goals and projects shall include the following:

- 17 (1) The Center has obtained legal title to the property on which the
18 Advanced Vehicle Research Center will be built.
- 19 (2) The Center has determined and provided for the critical infrastructure
20 needed to support the Advanced Vehicle Research Center.
- 21 (3) The Center has entered into a contract for the use and operation of a
22 testing facility that will create new private sector jobs in Tier 1 or Tier
23 2 counties.

24 **SECTION 13.8A.(b1)** No funds shall be released by the Office of State Budget and
25 Management under subsection (b) of this section until a board of directors of the Center
26 consisting of no fewer than five members representing five different organizations is
27 appointed and operating.

28 **SECTION 13.8A.(c)** The Center shall file with the Office of State Budget and
29 Management and the Department of Commerce a copy of the Center's policy addressing
30 conflicts of interest that may arise involving the Center's management employees and
31 the members of its board of directors or other governing body before funds may be
32 allocated to the Center. The policy shall address situations in which any of these
33 individuals may directly or indirectly benefit, except as the Center's employees or
34 members of the board or other governing body, from the Center's disbursing of State
35 funds, and shall include actions to be taken by the entity or the individual, or both, to
36 avoid conflicts of interest and the appearance of impropriety.

37 **SECTION 13.8A.(d)** ~~By December 31, 2005, December 31, 2006, and April 30,~~
38 ~~2006, April 30, 2007,~~ the Center shall report to the Governor, the Joint Legislative
39 Commission on Governmental Operations, and the Fiscal Research Division the
40 following information: (i) fiscal year ~~2005-2006~~2006-2007 projects, objectives, and
41 accomplishments; and (ii) fiscal year 2005-2006 itemized expenditures and fund
42 sources. The ~~April 30, 2006, April 30, 2007,~~ report shall also contain the following: (i)
43 fiscal year ~~2006-2007~~2007-2008 planned projects, objectives, and accomplishments;
44 and (ii) fiscal year 2006-2007 estimated expenditures and fund sources.

45 **SECTION 13.8A.(e)** The Center shall provide to the Governor, the Joint
46 Legislative Commission on Governmental Operations, and the Fiscal Research
47 Division: (i) a copy of the Center's annual audited financial statement within 30 days of
48 issuance of the statement; and (ii) a copy of the Center's IRS Form 990.

49 **SECTION 13.8A.(f)** The Center shall provide a report containing detailed budget
50 information to the Office of State Budget and Management in the same manner as State
51 departments and agencies in preparation for biennium budget requests. Specific salary
52 information will be provided upon written request by the Chairmen of the Joint
53 Legislative Commission on Governmental Operations or the Chairmen of the House
54 Appropriations Committee on Environment, Health, and Natural Resources and the

1 Chairman of the Senate Appropriations Committee on Natural and Economic
2 Resources.

3 **SECTION 13.8A.(g)** Funds appropriated to the Advanced Vehicle Research Center
4 Reserve for the 2005-2006 fiscal year for the Advanced Vehicle Research Center of
5 North Carolina, Inc., that are unexpended and unencumbered as of June 30, 2006, shall
6 not revert to the General Fund on June 30, 2006, but shall remain available in the
7 Reserve.

8 **SECTION 13.8A.(h)** Subsection (g) of this section becomes effective June 30,
9 2006."

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

11 **SECTION 12.6.** Section 13.1 of S.L. 2005-276 reads as rewritten:

12 **"SECTION 13.1.(a)** Funds appropriated to the Department of Commerce for the
13 ~~2004 2005~~2005-2006 fiscal year for the Wanchese Seafood Industrial Park that are
14 unexpended and unencumbered as of ~~June 30, 2005,~~June 30, 2006, shall not revert to
15 the General Fund on ~~June 30, 2005,~~June 30, 2006, but shall remain available to the
16 Department to be expended by the Wanchese Seafood Industrial Park for operations,
17 maintenance, repair, and capital improvements in accordance with Article 23C of
18 Chapter 113 of the General Statutes.

19 **SECTION 13.1.(b)** Funds appropriated to the Department of Commerce for the
20 ~~2004 2005~~2005-2006 fiscal year for the Oregon Inlet Project that are unexpended and
21 unencumbered as of ~~June 30, 2005,~~June 30, 2006, shall not revert to the General Fund
22 on ~~June 30, 2005,~~June 30, 2006.

23 **SECTION 13.1.(c)** This section becomes effective ~~June 30, 2005,~~June 30, 2006."

24 **DEPARTMENT OF COMMERCE/REPORT ON AGRIBUSINESS FUNDS**

25 **SECTION 12.7.(a)** The Department of Commerce (Department) shall report
26 on all funds available for companies or organizations designed to promote agribusiness
27 in North Carolina. The report shall include the following: (i) information on all
28 Department economic incentive funds, including Commerce State Aid funds; and (ii)
29 information on the number of agribusinesses and organizations that applied for State
30 funds through the Department or other organizations, including the number of requests
31 for funds, the amount of funds requested, and whether the requests were awarded or
32 denied.

33 **SECTION 12.7.(b)** The Department shall, in collaboration with the
34 Department of Agriculture and Consumer Services, evaluate the use of economic
35 incentive programs designed specifically for agribusinesses, and shall include its
36 findings in the report. The report shall also include a plan to implement economic
37 incentive programs designed specifically for agribusinesses and the estimated cost of
38 the programs. In determining the estimated cost of the programs, the Department shall
39 consider all known sources of funding, including federal, State, and grant funds.

40 **SECTION 12.7.(c)** The Department of Agriculture and Consumer Services,
41 the Rural Economic Development Center, Inc., the University System, and all other
42 State agencies with agribusiness programs shall compile and provide any information
43 requested by the Department for the purpose of preparing the report.

44 **SECTION 12.7.(d)** The Department shall submit the report to the House
45 Appropriations Committee on Environment, Health, and Natural Resources, the Senate
46 Appropriations Committee on Natural and Economic Resources, and the Fiscal
47 Research Division no later than May 1, 2007.

48 **ECONOMIC DEVELOPMENT RESERVE**

49 **SECTION 12.8.(a)** There is established in the Department of Commerce a
50 reserve to be known as the Economic Development Reserve. Funds from the Reserve
51 shall not be expended or transferred except in accordance with the provisions of this
52 section. Of the funds appropriated in this act to the Department of Commerce, the sum
53
54
55

of ten million dollars (\$10,000,000) shall be allocated to the Economic Development Reserve for the purpose of awarding grants for site acquisition and economic development projects.

SECTION 12.8.(b) By May 1, 2007, the Department of Commerce shall submit a report to the Office of State Budget and Management and the Fiscal Research Division containing the following information about each economic development project that was awarded a grant: (i) the name of the grant recipient involved; (ii) a description of the project; (iii) the project location; (iv) the rationale for awarding the grant; and (v) the amount of the grant.

SECTION 12.8.(c) G.S. 150B-1(d) is amended by adding a new subdivision to read:

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

- ...
 - (14) The Department of Commerce in developing guidelines for the North Carolina Economic Development Reserve."

PART XIII. DEPARTMENT OF LABOR

REPEAL FEE FOR MINE SAFETY EDUCATION/TRAINING PROGRAMS

SECTION 13.1. G.S. 74-24.16(d) is repealed.

PART XIV. JUDICIAL DEPARTMENT

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.1. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2006, for the purchase or repair of office or information technology equipment during the 2006-2007 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

GRANT FUNDS

SECTION 14.2. The Judicial Department may use up to the sum of one million two hundred fifty thousand dollars (\$1,250,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

PROVIDE ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

SECTION 14.3.(a) G.S. 7A-60(a1) reads as rewritten:

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

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10 <u>11</u>
2	Beaufort, Hyde, Martin,	6 <u>7</u>

1		Tyrrell, Washington	
2	3A	Pitt	9 <u>11</u>
3	3B	Carteret, Craven, Pamlico	10 <u>11</u>
4	4	Duplin, Jones, Onslow, Sampson	14 <u>16</u>
5			
6	5	New Hanover, Pender	14 <u>16</u>
7	6A	Halifax	4 <u>5</u>
8	6B	Bertie, Hertford, Northampton	4 <u>5</u>
9			
10	7	Edgecombe, Nash, Wilson	16 <u>18</u>
11	8	Greene, Lenoir, Wayne	11 <u>13</u>
12	9	Franklin, Granville, Vance, Warren	11 <u>12</u>
13			
14	9A	Person, Caswell	4 <u>5</u>
15	10	Wake	31 <u>38</u>
16	11	Harnett, Johnston, Lee	14 <u>16</u>
17	12	Cumberland	18 <u>21</u>
18	13	Bladen, Brunswick, Columbus	11 <u>12</u>
19	14	Durham	13 <u>15</u>
20	15A	Alamance	8 <u>10</u>
21	15B	Orange, Chatham	7 <u>9</u>
22	16A	Scotland, Hoke	5 <u>6</u>
23	16B	Robeson	10 <u>13</u>
24	17A	Rockingham	5 <u>6</u>
25	17B	Stokes, Surry	5 <u>7</u>
26	18	Guilford	27 <u>30</u>
27	19A	Cabarrus	6 <u>8</u>
28	19B	Montgomery, Moore, Randolph	11 <u>12</u>
29	19C	Rowan	5 <u>7</u>
30	20A	Anson, Richmond, Stanly	8 <u>10</u>
31			
32	20B	Union	7 <u>8</u>
33	21	Forsyth	17 <u>20</u>
34	22	Alexander, Davidson, Davie, Iredell	16 <u>20</u>
35			
36	23	Alleghany, Ashe, Wilkes, Yadkin	5 <u>7</u>
37			
38	24	Avery, Madison, Mitchell, Watauga, Yancey	4 <u>6</u>
39			
40	25	Burke, Caldwell, Catawba	15 <u>18</u>
41	26	Mecklenburg	36 <u>49</u>
42	27A	Gaston	12 <u>14</u>
43	27B	Cleveland, Lincoln	9 <u>10</u>
44			
45	28	Buncombe	11 <u>13</u>
46	29A	McDowell, Rutherford	5 <u>6</u>
47	29B	Henderson, Polk, Transylvania	6 <u>7</u>
48	30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	9 <u>11</u>
49			
50			

SECTION 14.3.(b) This section becomes effective January 1, 2007.

ADDITIONAL DISTRICT COURT JUDGESHIPS

SECTION 14.4.(a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5 <u>6</u>	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	8	New Hanover Pender
6A	2 <u>3</u>	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b)) Franklin
9A	2	Person
9B	2	Caswell Warren (part of Vance see subsection (b))
10	15 <u>16</u>	Wake
11	8 <u>9</u>	Harnett Johnston Lee
12	9	Cumberland
13	6	Bladen Brunswick Columbus
14	6 <u>7</u>	Durham
15A	4	Alamance
15B	4 <u>5</u>	Orange

1			Chatham
2	16A	3	Scotland
3			Hoke
4	16B	5	Robeson
5	17A	2 <u>3</u>	Rockingham
6	17B	4	Stokes
7			Surry
8	18	12 <u>13</u>	Guilford
9	19A	4	Cabarrus
10	19B	6 <u>7</u>	Montgomery
11			Moore
12			Randolph
13	19C	4 <u>5</u>	Rowan
14	20A	4	Stanly
15			Anson
16			Richmond
17	20B	3 <u>4</u>	Union
18	21	9	Forsyth
19	22	9	Alexander
20			Davidson
21			Davie
22			Iredell
23	23	4	Alleghany
24			Ashe
25			Wilkes
26			Yadkin
27	24	4	Avery
28			Madison
29			Mitchell
30			Watauga
31			Yancey
32	25	8 <u>9</u>	Burke
33			Caldwell
34			Catawba
35	26	17 <u>18</u>	Mecklenburg
36	27A	7 <u>8</u>	Gaston
37	27B	4 <u>5</u>	Cleveland
38			Lincoln
39	28	7 <u>8</u>	Buncombe
40	29A	3	McDowell
41			Rutherford
42	29B	4	Henderson
43			Polk
44			Transylvania
45	30	5 <u>6</u>	Cherokee
46			Clay
47			Graham
48			Haywood
49			Jackson
50			Macon
51			Swain."

SECTION 14.4.(b) The Governor shall appoint the additional district court judges for Districts 3B, 6A, 10, 11, 14, 15B, 17A, 18, 19B, 19C, 20B, 25, 26, 27A, 27B, 28, and 30 authorized by this act, and those judges' successors shall be elected in the 2008 election for four-year terms commencing on January 1, 2009.

1 **SECTION 14.4.(c)** This section becomes effective January 15, 2007, as to
 2 any district court district not subject to section 5 of the Voting Rights Act of 1965. As to
 3 any district court district subject to section 5 of the Voting Rights Act of 1965, it
 4 becomes effective January 15, 2007, or the date upon which the additional judge added
 5 for that district by subsection (a) of this section is approved under section 5 of the
 6 Voting Rights Act of 1965, whichever is later.

7
 8 **PROVIDE ADDITIONAL MAGISTRATES/ELIMINATE MAXIMUM**
 9 **ALLOCATION OF MAGISTRATES**

10 **SECTION 14.5.** G.S. 7A-133(c) reads as rewritten:

11 "(c) Each county shall have the numbers of magistrates and additional seats of
 12 district court, as set forth in the following table:

	County	Magistrates Min.—Max.	Additional Seats of Court
15	Camden	1 3	
16	Chowan	2 3	
17	Currituck	1 4	
18	Dare	3 8	
19	Gates	2 3	
20	Pasquotank	3 5	
21	Perquimans	2 4	
22	Martin	4 8	
23	Beaufort	4 8	
24	Tyrrell	1 3	
25	Hyde	2 4	
26	Washington	3 4	
27	Pitt	10 12	Farmville
28			Ayden
29	Craven	7 10	Havelock
30	Pamlico	2 4	
31	Carteret	5 6 8	
32	Sampson	6 8	
33	Duplin	8 11	
34	Jones	2 3	
35	Onslow	8 14	
36	New Hanover	6 11	
37	Pender	4 6	
38	Halifax	9 14	Roanoke
39			Rapids,
40			Scotland Neck
41	Northampton	5 7	
42	Bertie	4 6	
43	Hertford	5 7	
44	Nash	7 10	Rocky Mount
45	Edgecombe	4 7	Rocky Mount
46	Wilson	4 7	
47	Wayne	5 12	Mount Olive
48	Greene	2 3 4	
49	Lenoir	4 10	La Grange
50	Granville	3 7	
51	Vance	3 6	
52	Warren	3 5	
53	Franklin	3 7	
54	Person	3 4	

1	Caswell	2	5	
2	Wake	12	21	Apex,
3				Wendell,
4				Fuquay-
5				Varina,
6				Wake Forest
7	Harnett	7	11	Dunn
8	Johnston	10	12	Benson,
9				Clayton,
10				Selma
11	Lee	4	6	
12	Cumberland	10	19	
13	Bladen	4	6	
14	Brunswick	4	9	
15	Columbus	6	10	Tabor City
16	Durham	8	13	
17	Alamance	7 8	11	Burlington
18	Orange	4	11	Chapel Hill
19	Chatham	3	9	Siler City
20	Scotland	3	5	
21	Hoke	4	5	
22	Robeson	8 9	16	Fairmont,
23				Maxton,
24				Pembroke,
25				Red Springs,
26				Rowland,
27				St. Pauls
28	Rockingham	4	9	Reidsville,
29				Eden,
30				Madison
31	Stokes	2	5	
32	Surry	5	9	Mt. Airy
33	Guilford	20	27	High Point
34	Cabarrus	5	9	Kannapolis
35	Montgomery	2 3	4	
36	Randolph	5	10	Liberty
37	Rowan	5	10	
38	Stanly	5	6	
39	Union	4	7	
40	Anson	4	6	
41	Richmond	5	6	Hamlet
42	Moore	5	8	Southern
43				Pines
44	Forsyth	3	15	Kernersville
45	Alexander	2	4	
46	Davidson	7	10	Thomasville
47	Davie	2	4	
48	Iredell	4	9	Mooresville
49	Alleghany	1	2	
50	Ashe	3	4	
51	Wilkes	4	6	
52	Yadkin	3	5	
53	Avery	3	5	
54	Madison	4	5	
55	Mitchell	3	4	

1	Watauga	4	6	
2	Yancey	2	4	
3	Burke	4	7	
4	Caldwell	4	7	
5	Catawba	6	10	Hickory
6	Mecklenburg	15	28	
7	Gaston	11 12	22	
8	Cleveland	5	8	
9	Lincoln	4	7	
10	Buncombe	6	15	
11	Henderson	4	7	
12	McDowell	3	6	
13	Polk	3	4	
14	Rutherford	6	8	
15	Transylvania	2	4	
16	Cherokee	3	4	
17	Clay	1	2	
18	Graham	2	3	
19	Haywood	5	7	Canton
20	Jackson	3	5	
21	Macon	3	5	
22	Swain	2	4."	

MONITORING OF COMMUNITY MEDIATION CENTERS

SECTION 14.12. G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated (identified by docket number), cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

The Mediation Network of North Carolina shall also submit a copy of its report to the Administrative Office of the Courts. The receipt and review of this report by the Administrative Office of the Courts shall satisfy any program monitoring, evaluation, and contracting requirements imposed on the Administrative Office of the Courts by G.S. 143-6.2 and any rules adopted under that section."

INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 14.14. The Office of Indigent Defense Services may use a sum up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the Senate and House of Representatives

1 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
2 Commission on Governmental Operations on the grants to be matched using these
3 funds.

5 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

6 **SECTION 14.15.** Section 14.11 of S.L. 2005-276, as amended by Section 28
7 of S.L. 2005-345, reads as rewritten:

8 "**SECTION 14.11.** The Judicial Department, Office of Indigent Defense Services,
9 may use up to the sum of ~~one million sixty nine thousand six hundred forty five dollars~~
10 ~~(\$1,069,645) in appropriated funds during the 2005-2006 fiscal year and up to the sum~~
11 ~~of one million twenty three thousand one hundred thirty five dollars (\$1,023,135) two~~
12 million one hundred eighteen thousand five hundred eighty dollars (\$2,118,580) in
13 appropriated funds during the 2006-2007 fiscal year (i) for the expansion of existing
14 offices currently providing legal services to the indigent population under the oversight
15 of the Office of Indigent Defense Services by creating up to ~~40~~20 new attorney
16 positions and ~~five~~10 new support staff positions; and (ii) to create up to two new
17 assistant public defender positions and one new support staff position in the First
18 Defender District and up to one new assistant public defender position in Defender
19 District 3A, for the purpose of representing indigent persons eligible for the
20 appointment of counsel in Superior Court District 2 and District Court District 2. These
21 funds may be used for salaries, benefits, equipment, and related expenses. Prior to using
22 funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs
23 of the House and the Senate Appropriations Subcommittees on Justice and Public Safety
24 on the proposed expansion."

26 **REVIEW OF OFFICE OF INDIGENT DEFENSE SERVICES**

27 **SECTION 14.16.** The State Auditor shall conduct an analysis of the fee
28 payment practices of the Office of Indigent Defense Services and make
29 recommendations for process improvements in payment of fee applications, including
30 recommendations regarding automation. The State Auditor shall report the results of
31 this analysis and the recommendations resulting from it to the Chairs of the House and
32 Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2007.

34 **INCREASE THE UNIFORM FEES PAID TO JURORS**

35 **SECTION 14.17.** G.S. 7A-312 reads as rewritten:

36 "**§ 7A-312. Uniform fees for jurors; meals.**

37 A juror in the General Court of Justice including a petit juror, or a coroner's juror,
38 but excluding a grand juror, shall receive twelve dollars (\$12.00) ~~per day, for the first~~
39 day of service and twenty dollars (\$20.00) per day afterwards, except that if any person
40 serves as a juror for more than five days in any 24-month period, the juror shall receive
41 ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per day for each day of service in excess of
42 five days. A grand juror shall receive ~~twelve dollars (\$12.00)~~ twenty dollars (\$20.00)
43 per day. A juror required to remain overnight at the site of the trial shall be furnished
44 adequate accommodations and subsistence. If required by the presiding judge to remain
45 in a body during the trial of a case, meals shall be furnished the jurors during the period
46 of sequestration. Jurors from out of the county summoned to sit on a special venire shall
47 receive mileage at the same rate as State employees."

49 **DIVIDE PROSECUTORIAL DISTRICT 19B INTO DISTRICTS 19B AND 19D**

50 **SECTION 14.19.(a)** Effective January 15, 2007, G.S. 7A-60(a1), as
51 amended by Section 14.3 of this act, reads as rewritten:

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

No. of Full-Time

	Prosecutorial District	Counties	Asst. District Attorneys
1	1	Camden, Chowan, Currituck,	11
2		Dare, Gates, Pasquotank,	
3		Perquimans	
4	2	Beaufort, Hyde, Martin,	7
5		Tyrrell, Washington	
6	3A	Pitt	11
7	3B	Carteret, Craven, Pamlico	11
8	4	Duplin, Jones, Onslow,	16
9		Sampson	
10	5	New Hanover, Pender	16
11	6A	Halifax	5
12	6B	Bertie, Hertford,	5
13		Northampton	
14	7	Edgecombe, Nash, Wilson	18
15	8	Greene, Lenoir, Wayne	13
16	9	Franklin, Granville,	12
17		Vance, Warren	
18	9A	Person, Caswell	5
19	10	Wake	38
20	11	Harnett, Johnston, Lee	16
21	12	Cumberland	21
22	13	Bladen, Brunswick, Columbus	12
23	14	Durham	15
24	15A	Alamance	10
25	15B	Orange, Chatham	9
26	16A	Scotland, Hoke	6
27	16B	Robeson	13
28	17A	Rockingham	6
29	17B	Stokes, Surry	7
30	18	Guilford	30
31	19A	Cabarrus	8
32	19B	Montgomery, Moore , Randolph	12 8
33	19C	Rowan	7
34	<u>19D</u>	<u>Moore</u>	<u>4</u>
35	20A	Anson, Richmond,	10
36		Stanly	
37	20B	Union	8
38	21	Forsyth	20
39	22	Alexander, Davidson, Davie,	20
40		Iredell	
41	23	Alleghany, Ashe, Wilkes,	7
42		Yadkin	
43	24	Avery, Madison, Mitchell,	6
44		Watauga, Yancey	
45	25	Burke, Caldwell, Catawba	18
46	26	Mecklenburg	49
47	27A	Gaston	14
48	27B	Cleveland,	10
49		Lincoln	
50	28	Buncombe	13
51	29A	McDowell, Rutherford	6
52	29B	Henderson, Polk, Transylvania	7
53	30	Cherokee, Clay, Graham,	11
54			
55			

1 Haywood, Jackson, Macon,
2 Swain."

3 **SECTION 14.19.(b)** The district attorney position established for District
4 19B by subsection (a) of this section shall be filled by the district attorney currently
5 serving District 19B who resides in Randolph County. The district attorney position
6 established for District 19D by subsection (a) of this section shall be filled by
7 appointment of the Governor for the remainder of the term expiring January 1, 2009. A
8 district attorney for District 19D shall be elected in 2008 for a four-year term
9 commencing January 1, 2009.

10 **SECTION 14.19.(c)** The eight assistant district attorney positions for
11 District 19B under subsection (a) of this section shall be filled by eight assistant district
12 attorneys currently serving Montgomery and Randolph Counties in District 19B. The
13 four assistant district attorney positions for District 19D under subsection (a) of this
14 section shall be filled by four assistant district attorneys currently serving Moore County
15 in District 19B.

16 **SECTION 14.19.(d)** This section becomes effective January 15, 2007.

17
18 **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
19 **PREVENTION**

20
21 **REPORTS ON CERTAIN PROGRAMS**

22 **SECTION 15.1.** Section 16.3 of S.L. 2005-276 reads as rewritten:

23 **"SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to the
24 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
25 Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and
26 Juvenile Justice Oversight Committee by April 1 each year on the operation and the
27 effectiveness of its program in providing alternative dispositions and services to
28 juveniles who have been adjudicated delinquent or undisciplined. The report shall
29 include information on:

- 30 (1) The source of referrals for juveniles.
- 31 (2) The types of offenses committed by juveniles participating in the
32 program.
- 33 (3) The amount of time those juveniles spend in the program.
- 34 (4) The number of juveniles who successfully complete the program.
- 35 (5) The number of juveniles who commit additional offenses after
36 completing the program.
- 37 (6) The program's budget and expenditures, including all funding sources.

38 **SECTION 16.3.(b)** The Juvenile Assessment Center shall report to the Chairs of
39 the Senate and House of Representatives Appropriations Subcommittees on Justice and
40 Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice
41 Oversight Committee on the effectiveness of the Center by April 1 each year. The report
42 shall include information on the number of juveniles served and an evaluation of the
43 effectiveness of juvenile assessment plans and services provided as a result of these
44 plans. In addition, the report shall include information on the Center's budget and
45 expenditures, including all funding sources.

46 **SECTION 16.3.(c)** Communities in Schools shall report to the Chairs of the Senate
47 and House of Representatives Appropriations Subcommittees on Justice and Public
48 Safety, ~~the Joint Legislative Commission on Governmental Operations,~~ the Joint
49 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
50 the Joint Legislative Education Oversight Committee by April 1 each year on the
51 operation and effectiveness of its program. The report shall include information on:

- 52 (1) The number of children served.
- 53 (2) The number of volunteers used.
- 54 (3) The impact on children who have received services from Communities
55 in Schools.

- 1 (4) The program's budget and expenditures, including all funding
2 sources."
3

4 STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

5 SECTION 15.2. Section 16.5 of S.L. 2005-276 reads as rewritten:

6 "SECTION 16.5. Funds appropriated in this act to the Department of Juvenile
7 Justice and Delinquency Prevention for the ~~2005-2006-2006-2007~~ fiscal year may be
8 used as matching funds for the Juvenile Accountability Incentive Block Grants. If North
9 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
10 to be awarded, the Office of State Budget and Management and the Governor's Crime
11 Commission shall consult with the Department of Juvenile Justice and Delinquency
12 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
13 and Management, the Governor's Crime Commission, and the Department of Juvenile
14 Justice and Delinquency Prevention shall report to the Appropriations Committees of
15 the Senate and House of Representatives and the Joint Legislative Commission on
16 Governmental Operations prior to allocation of the federal funds. The report shall
17 identify the amount of funds to be received for the ~~2005-2006-~~ 2006-2007 fiscal year,
18 the amount of funds anticipated for the ~~2006-2007-~~ 2007-2008 fiscal year, and the
19 allocation of funds by program and purpose."
20

21 ANNUAL EVALUATION OF COMMUNITY PROGRAMS

22 SECTION 15.4. Section 16.4 of S.L. 2005-276 reads as rewritten:

23 "SECTION 16.4. The Department of Juvenile Justice and Delinquency Prevention
24 shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp
25 programs, the teen court programs, the program that grants funds to the local
26 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
27 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
28 multipurpose group homes. The teen court report shall include statistical information on
29 the number of juveniles served, the number and type of offenses considered by teen
30 courts, referral sources for teen courts, and the number of juveniles that become
31 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
32 program shall include information on:

- 33 (1) The expenditure of State appropriations on the program;
- 34 (2) The operations and the effectiveness of the program; and
- 35 (3) The number of juveniles served under the program.

36 In conducting the evaluation of each of these programs, the Department shall
37 consider whether participation in each program results in a reduction of court
38 involvement among juveniles. The Department shall also identify whether the programs
39 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
40 Department shall report the results of the evaluation to the Joint Corrections, Crime
41 Control, and Juvenile Justice Oversight Committee, the Chairs of the House of
42 Representatives and Senate Appropriations Committees-Committees, and the Chairs of
43 the Subcommittees on Justice and Public Safety of the House of Representatives and
44 Senate Appropriations Committees by March 1 of each year."
45

46 ALTERNATIVES TO JUVENILE COMMITMENT/JUVENILE CRIME 47 PREVENTION COUNCILS

48 SECTION 15.5. Section 16.11 of S.L. 2005-276 is amended by adding a
49 new subsection to read:

50 "SECTION 16.11.(d) The requirements of this section apply to all future
51 allocations by the Department of Juvenile Justice and Delinquency Prevention of the
52 funds appropriated to the Department by Section 16.11 of S.L. 2005-276 and Section
53 16.7 of S.L. 2004-124."
54

55 REPORTS ON YOUTH DEVELOPMENT CENTERS

1 **SECTION 15.6.(a)** Section 16.6 of S.L. 2005-276 reads as rewritten:

2 **"SECTION 16.6.(a)** The Department of Juvenile Justice and Delinquency
3 Prevention shall report December 31, 2005, and quarterly thereafter during the
4 2005-2007 biennium to the Chairs of the Senate and House of Representatives
5 Appropriations Subcommittees on Justice and Public Safety and to the Joint
6 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment
7 staffing model being piloted at Samarkand and Stonewall Jackson Youth Development
8 Centers. The report shall include a list of total positions at each facility by job class,
9 whether the position is vacant or filled, whether positions were filled from internal
10 employees or new employees, and the training and certification status of each position.
11 The report shall also describe the nature of the treatment program, the criteria for
12 evaluating the program, and how the program is performing in comparison to these
13 criteria. The report shall also describe the training approach to be used to train staff in
14 using treatment methods in youth development centers and provide information on
15 current staff training and staff training planned for the next quarter. The Department
16 shall also develop indicators for evaluating staff performance once the model has been
17 implemented.

18 **SECTION 16.6.(b)** The Department of Juvenile Justice and Delinquency
19 Prevention shall report December 31, 2005, and quarterly thereafter during the
20 2005-2007 biennium to the Chairs of the Senate and House of Representatives
21 Appropriations Subcommittees on Justice and Public Safety and the Joint Corrections,
22 Crime Control, and Juvenile Justice Oversight Committee on the implementation of the
23 treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth
24 Development Centers. The Department shall identify the number of positions
25 reallocated to the new treatment job classes and the source of funding for those
26 positions.

27 **SECTION 16.6.(c)** The Department of Juvenile Justice and Delinquency
28 Prevention shall report to the Chairs of the Senate and House of Representatives
29 Appropriations Subcommittees on Justice and Public Safety and the Joint Corrections,
30 Crime Control, and Juvenile Justice Oversight Committee by November 10, 2006, on
31 the final recommended staffing plan for youth development centers for the 2007-2008
32 fiscal year. The report shall include:

- 33 (1) The latest results of the evaluation of the pilot treatment staffing
34 models at the Samarkand and Stonewall Jackson Youth Development
35 Centers and the progress in implementing the model at other youth
36 development centers.
- 37 (2) The total recommended staffing by position classification for each
38 youth development center. Staffing by shift shall be provided for each
39 housing unit as well as justification for the level and type of staff on
40 each shift.
- 41 (3) The total cost and cost per bed for each youth development center to
42 implement the staffing model.
- 43 (4) The primary basis for the number of staff at each youth development
44 center by classification.
- 45 (5) An identification of other states that have implemented a treatment
46 based staffing model, how the staffing patterns compare to the
47 Department of Juvenile Justice and Delinquency Prevention proposal,
48 and any research on the benefits and outcomes of using the treatment
49 based approach in these states."

50 **SECTION 15.6.(b)** It is the intent of the General Assembly to consider
51 appropriating funds for new treatment positions at youth development centers only
52 when the report required by subsection (a) of this section is received by the Chairs of
53 the Senate and House of Representatives Appropriations Subcommittees on Justice and
54 Public Safety.
55

PART XVI. DEPARTMENT OF CORRECTION**INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND INMATE LAUNDRY SERVICES**

SECTION 16.1. Section 17.6 of S.L. 2005-276 reads as rewritten:

"SECTION 17.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

SECTION 17.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

SECTION 17.6.(c) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for the purchase of ~~clothing and~~ laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount."

CONVERSION OF CONTRACTED MEDICAL POSITIONS

SECTION 16.2. Section 17.7 of S.L. 2005-276 reads as rewritten:

"SECTION 17.7.(a) The Department of Correction may convert contract medical positions to permanent State medical positions if the Department can document in each request submitted to the Office of State Budget and Management that the total savings generated will exceed the total cost of the new ~~positions for each facility.~~ positions. ~~Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.~~

SECTION 17.7.(b) The Department of Correction shall report by ~~April 1, 2006,~~ April of each year to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings ~~generated at each correctional facility.~~ generated."

COMPUTER/DATA PROCESSING SERVICES FUNDS

SECTION 16.3. Section 17.10. of S.L. 2005-276 reads as rewritten:

"SECTION 17.10. Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount."

REPORTS ON NONPROFIT PROGRAMS

SECTION 16.4. Section 17.22 of Session Laws 2005-276 reads as rewritten:

"SECTION 17.22.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve

1 women released from prison with children in their custody. Harriet's House shall report
2 by February 1 of each year to the ~~Joint Legislative Commission on Governmental~~
3 ~~Operations~~ Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
4 Committee and the Chairs of the House of Representatives and Senate Appropriations
5 Subcommittees on Justice and Public Safety on the expenditure of State appropriations
6 and on the effectiveness of the program, including information on the number of clients
7 served, the number of clients who successfully complete the Harriet's House program,
8 and the number of clients who have been rearrested within three years of successfully
9 completing the program. The report shall provide financial and program data for the
10 complete fiscal year prior to the year in which the report is submitted. The financial
11 report shall identify all funding sources and amounts.

12 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year to the
13 ~~Joint Legislative Commission on Governmental Operations~~ Joint Legislative
14 Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs
15 of the House of Representatives and Senate Appropriations Subcommittees on Justice
16 and Public Safety on the expenditure of State appropriations and on the effectiveness of
17 the program, including information on the number of clients served, the number of
18 clients who have had their probation revoked, the number of clients who successfully
19 complete the program while housed at Summit House, Inc., and the number of clients
20 who have been rearrested within three years of successfully completing the program.
21 The report shall provide financial and program data for the complete fiscal year prior to
22 the year in which the report is submitted. The financial report shall identify all funding
23 sources and amounts.

24 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year to the
25 ~~Joint Legislative Commission on Governmental Operations~~ Joint Legislative
26 Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs
27 of the House of Representatives and Senate Appropriations Subcommittees on Justice
28 and Public Safety on the expenditure of State funds and on the effectiveness of the
29 program, including information on the number of clients served, the number of clients
30 who have had their probation revoked, the number of clients who have successfully
31 completed the program, and the number of clients who have been rearrested within three
32 years of successfully completing the program. The report shall provide financial and
33 program data for the complete fiscal year prior to the year in which the report is
34 submitted. The financial report shall identify all funding sources and amounts.

35 **SECTION 17.22.(d)** Our Children's Place shall report by February 1, 2007, to the
36 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
37 and the Chairs of the House of Representatives and Senate Appropriations
38 Subcommittees on Justice and Public Safety on the status of the planning, design, and
39 construction of Our Children's Place, the proposed program components and evaluation
40 measures, and on the projected number of inmates and their children to be served. The
41 report shall also provide financial data, including the expenditure of State funds and all
42 funding sources and amounts."

43 44 **PAROLE ELIGIBILITY REPORT**

45 **SECTION 16.5.** Section 17.28 of S.L. 2005-276 reads as rewritten:

46 **"SECTION 17.28.(a)** The Post-Release Supervision and Parole Commission shall,
47 with the assistance of the North Carolina Sentencing and Policy Advisory Commission
48 and the Department of Correction, analyze the amount of time each ~~parole-eligible~~
49 inmate who is eligible for parole on or before July 1, 2007, has served compared to the
50 time served by offenders under Structured Sentencing for comparable crimes. The
51 Commission shall determine if the person has served more time in custody than the
52 person would have served if sentenced to the maximum sentence under the provisions
53 of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for
54 the purposes of this section, shall be calculated as set forth in subsection (b) of this
55 section.

1 **SECTION 17.28.(b)** For the purposes of this section, the following rules apply for
2 the calculation of the maximum sentence:

- 3 (1) The offense upon which the person was convicted shall be classified as
4 the same felony class as the offense would have been classified if
5 committed after the effective date of Article 81B of Chapter 15A of
6 the General Statutes.
- 7 (2) The minimum sentence shall be the maximum number of months in
8 the presumptive range of minimum durations in Prior Record Level VI
9 of G.S. 15A-1340.17(c) for the felony class determined under
10 subdivision (1) of this subsection. The maximum sentence shall be
11 calculated using G.S. 15A-1340.17(d), (e), or (e1).
- 12 (3) If a person is serving sentences for two or more offenses that are
13 concurrent in any respect, then the offense with the greater
14 classification shall be used to determine a single maximum sentence
15 for the concurrent offenses. The fact that the person has been
16 convicted of multiple offenses may be considered by the Commission
17 in making its determinations under subsection (a) of this section.

18 **SECTION 17.28.(c)** The Commission shall report to the Joint Legislative
19 Corrections, Crime Control, and Juvenile Justice Oversight Committee ~~on the results of~~
20 ~~its analysis by October 1, 2005, and to the Chairs of the Senate and House of~~
21 Representatives Appropriations Committees, and the Chairs of the Senate and House of
22 Representatives Appropriations Subcommittees on Justice and Public Safety by April 1,
23 2007. The report shall include the following: the class of the offense for which each
24 parole-eligible inmate was convicted and whether an inmate had multiple criminal
25 convictions. The Commission shall reinstate the parole review process for each
26 offender who has served more time than that person would have under Structured
27 Sentencing as provided by subsections (a) and (b) of this section.

28 The Commission shall also report by February 1, 2006, regarding on the number of
29 parole-eligible inmates reconsidered in compliance with this section and the number
30 who were actually paroled."
31

32 **PROPOSAL FOR JOINT USE OF SWANNANOVA PROPERTY/ADULT**
33 **FEMALE CORRECTIONAL FACILITY AND JUVENILE YOUTH**
34 **DEVELOPMENT CENTER**

35 **SECTION 16.8.** The Department of Correction and the Department of
36 Juvenile Justice and Delinquency Prevention shall prepare a joint report regarding the
37 proposed joint use by both departments of the Swannanoa property currently used to
38 operate the Swannanoa Valley Youth Development Center. The report shall evaluate the
39 feasibility of using that property for both of the following: (i) to establish an adult
40 female correctional center and (ii) to continue to operate a juvenile youth development
41 center.

42 The report shall be submitted to the Joint Legislative Commission on
43 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
44 Juvenile Justice Oversight Committee by November 10, 2006. The report shall include
45 all of the following: the total costs for the project over a five-year period, including
46 operating costs, repair and renovation costs, and the anticipated source of funding for
47 those costs; the number and type of positions to be transferred from the Department of
48 Juvenile Justice and Delinquency Prevention to the Department of Correction for the
49 project; and the plan to employ existing Swannanoa Valley Youth Development Center
50 employees by the Department of Correction. The Department of Correction shall also
51 report on the plan for transferring employees from the Black Mountain Correctional
52 Center to the proposed new correctional center at Swannanoa.

53 There shall be no transfer of any property or positions between agencies prior
54 to consultation with the Joint Legislative Commission on Governmental Operations and
55 the receipt of the report that is to be submitted in accordance with this section.

FEDERAL GRANT MATCHING FUNDS

SECTION 16.9. Section 17.9 of S.L. 2005-276 reads as rewritten:

"**SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of ~~seven hundred fifty thousand dollars (\$750,000)~~ one million dollars (\$1,000,000) during the 2006-2007 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds."

GANG PREVENTION INITIATIVE

SECTION 16.10. The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety regarding the Security Threat Group Unit Program at Foothills Correctional Center. The report shall include information on the number of inmates in the program during fiscal years 2005-2006 and 2006-2007 compared to program capacity, describe the major program components, provide information on the measures being used to evaluate the program, and analyze program performance in relation to these measures. The Department of Correction shall submit the report as required by this section no later than March 15, 2007.

PART XVI-A. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**GRANTS TO PREVENT GANG VIOLENCE**

SECTION 16A.1.(a) Of the funds appropriated in this act to the Governor's Crime Commission within the Department of Crime Control and Public Safety, the sum of one million five hundred thousand dollars (\$1,500,000) for the 2006-2007 fiscal year shall be used to provide two-year grants for community street gang violence prevention and intervention programs. The Governor's Crime Commission shall allocate the funds using a competitive grant award process that includes a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and the presentation of a written plan for the services to be provided by the funds.

No individual grant awarded under this section may exceed one hundred thousand dollars (\$100,000).

SECTION 16A.1.(b) The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the House of Representatives and the Senate on the total number of grants awarded, a description of each grantee's program, and the amount awarded to each grantee. The Commission shall submit its report by April 1, 2007.

PART XVII. DEPARTMENT OF ADMINISTRATION**EXAMINE FEASIBILITY OF COMBINING FUNDING SOURCES/NC COUNCIL FOR WOMEN AND DOMESTIC VIOLENCE COMMISSION**

SECTION 17.1. The North Carolina Council for Women and the Domestic Violence Commission, within the Department of Administration, shall examine the feasibility of combining the funding sources to distribute domestic violence grants and sexual assault grants. The North Carolina Council for Women and the Domestic Violence Commission shall report their findings to the Chairs of the House and Senate Appropriations Subcommittees on General Government and the Joint Legislative Commission on Governmental Operations by February 1, 2007.

STATE ENERGY OFFICE NEEDS ASSESSMENT

SECTION 17.2. The State Energy Office in the Department of Administration will deplete all its funding sources on June 30, 2007. The Office has received federal funds which will no longer be available, and it has no other funding source. The State Energy Office and the Office of State Budget and Management shall jointly conduct a needs assessment to determine what functions currently being performed by the State Energy Office need to be performed in the 2007-2008 fiscal year. As part of this assessment, the mission statement of the division shall be examined to clarify what existing needs the Office should continue in the future. In conducting the needs assessment, the two agencies shall note any differences in the findings and recommendations that each may have related to the needs assessment.

The needs assessment shall be completed and presented to the Chairs of the House and Senate Appropriations Subcommittees on General Government no later than February 1, 2007.

HUB CONTRACTOR ACADEMY PROGRAM SPACE

SECTION 17.3. For the 2006-2007 fiscal year the Department of Administration shall work in conjunction with The University of North Carolina System for the continued provision of space for the HUB Contractor Academy Program to conduct training sessions. The Department of Administration shall determine whether the HUB academies should continue to hold training sessions in facilities provided by The University of North Carolina System or seek other sites for this purpose for the 2007-2008 fiscal year and future years.

OLD REVENUE BUILDING

SECTION 17.4. The Department of Administration shall examine the feasibility of redesigning the Old Revenue Building to address security concerns and the unused and underutilized space issues identified in the Space Utilization Study, which was complete on June 5, 2006. The Department shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations by November 1, 2006.

COMMISSION ON STATE PROPERTY FUNDS

SECTION 17.5. Of the funds appropriated to the Department of Administration for the 2006-2007 fiscal year, the Director of the Budget shall transfer two hundred fifty thousand dollars (\$250,000) to the Commission on State Property established in Article 78 of Chapter 143 of the General Statutes.

PART XVII-A. DEPARTMENT OF CULTURAL RESOURCES**CULTURAL SHARING AND CARING PROGRAM**

SECTION 17A.1. The Department of Cultural Resources shall report on the Cultural Sharing and Caring Program to the Joint Legislative Commission on Governmental Operations by November 1, 2006. The report shall include the following:

- (1) The plans related to offering and scheduling the program components.
- (2) A list of the program components currently available in the local school systems, including the availability and the frequency the components are offered.
- (3) The coordination required between the Department of Cultural Resources, the Department of Public Instruction, and the local school systems to provide any or all of the program components, including the anticipated level of participation in the program.
- (4) The allocation of the funding appropriated in the 2006-2007 fiscal year to support the program components.

PART XVIII. OFFICE OF ADMINISTRATIVE HEARINGS**CODIFIER'S AUTHORITY OVER THE REGISTER**

SECTION 18.1. G.S. 150B-21.17 is amended by adding a new subsection to read:

"(c) The Codifier may authorize and license the private indexing, marketing, sales, reproduction, and distribution of the Register."

PART XIX. DEPARTMENT OF REVENUE**REVISED MAXIMUMS FOR COLLECTION ASSISTANCE FEES**

SECTION 19.2. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.
- (3) To pay for taxpayer locator services, not to exceed ~~one hundred thousand dollars (\$100,000)~~ one hundred fifty thousand dollars (\$150,000) a year.
- (4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax ~~debts.~~ debts, not to exceed three hundred fifty-three thousand dollars (\$353,000) a year.
- (5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.
- (6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts."

CONSOLIDATE TAX PROJECTS REPORTS

SECTION 19.3.(a) G.S. 105-243.1(f) reads as rewritten:

"(f) Reports. – ~~The report of Department activities required by G.S. 105-256 contains information on the Department's efforts to collect tax debts and its use of the proceeds of the collection assistance fee. Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long term collection plan, a timeline for implementing each step of the plan, a~~

1 ~~summary of steps taken since the last report and their results, and any other data~~
2 ~~requested by the Commission or the Committee.~~

3 ~~The Department must report by April 1, 2006, and annually thereafter, to the~~
4 ~~Revenue Laws Study Committee and the Fiscal Research Division of the General~~
5 ~~Assembly on the use of the fee proceeds for collecting overdue tax debts."~~

6 **SECTION 19.3.(b)** G.S. 105-256(a) reads as rewritten:

7 "(a) Reports. – The Secretary shall prepare and publish the following:

8
9 ~~...~~
10 (6) ~~On an annual basis, a report on the quality of services provided to~~
11 ~~taxpayers, including telephone and taxpayers through the Taxpayer~~
12 ~~Assistance Call Center, walk-in assistance assistance, and taxpayer~~
13 ~~education. The report must be submitted to the Joint Legislative~~
14 ~~Commission on Governmental Operations.~~

15 ~~...~~
16 (8) By January 1 and July 1 of each year, a semiannual report on the
17 Department's activities listed in this subdivision. The report must be
18 submitted to the Joint Legislative Commission on Governmental
19 Operations and to the Revenue Laws Study Committee.

20 a. Its efforts to increase compliance with the tax laws. The report
21 must describe the Department's existing initiatives in this area
22 as of July 1, 2006, and must estimate, by tax type and amount,
23 the revenue expected in the fiscal year by the initiative. The
24 report must describe any new initiative implemented since July
25 1, 2006, and estimate, by tax type and amount, the revenue
26 expected in the fiscal year by the initiative.

27 b. Its efforts to identify and address fraud and other abuses of the
28 voluntary tax compliance system that result in unreported and
29 underreported tax. The report must describe the Department's
30 long-term plan for achieving greater voluntary compliance and
31 must summarize the steps taken since the last report and their
32 results.

33 c. Its efforts to collect tax debts. The report must include a
34 breakdown of the amount and age of tax debts collected through
35 warning letters and by other means, must itemize collections by
36 type of tax, must describe the Department's long-term collection
37 plan, and must summarize the steps taken since the last report
38 and their results.

39 d. Its use of the proceeds of the collection assistance fee imposed
40 by G.S. 105-243.1.

41 **SECTION 19.3.(c)** The first report required under G.S. 105-256(a)(8), as
42 enacted by this section, is due by January 1, 2007.

43 **PAYMENT OF USUB PENALTIES TO CIVIL PENALTY AND FORFEITURE** 44 **FUND**

45 **SECTION 19.4.(a)** Notwithstanding G.S. 143-18, the Department of
46 Revenue may expend up to two million four hundred thirty-four thousand two hundred
47 seventy dollars and seventy-one cents (\$2,434,270.71) of unencumbered maintenance
48 appropriations as of June 30, 2006, for the purpose of paying the Civil Penalty and
49 Forfeiture Fund. The amount to be expended represents Unauthorized Substance Tax
50 penalty collections that were paid to local law enforcement agencies for the period of
51 July 1, 2005, through December 31, 2005. The source of the unencumbered funds shall
52 come entirely from the Department of Revenue. If unencumbered funds are not
53 sufficient on June 30, 2006, the Department shall use anticipated unencumbered funds
54 as of July 1, 2006.

1 **SECTION 19.4.(b)** Through the 2008-2009 fiscal year, the Department of
2 Revenue shall reduce succeeding distributions to a law enforcement agency under
3 G.S. 105-113.113 to offset the amount that was improperly distributed to that agency, as
4 described in subsection (a) of this section, and the Department shall deposit the funds
5 collected into a reserve account which shall revert at the end of each fiscal year.

6
7 **PART XX. DEPARTMENT OF THE STATE TREASURER**

8
9 **CONSOLIDATE PUBLIC EMPLOYEE RETIREMENT PROGRAMS IN**
10 **SINGLE AGENCY**

11 **SECTION 20.1.** G.S. 143B-426.24 reads as rewritten:

12 **"§ 143B-426.24. Board of Trustees of the North Carolina Public Employee**
13 **Deferred Compensation Plan.**

14 (a) The Governor may, by Executive Order, establish a Board of Trustees of the
15 North Carolina Public Employee Deferred Compensation Plan, which when established
16 shall be constituted an agency of the State of North Carolina within the Department of
17 ~~Administration~~State Treasurer. The Board shall create, establish, implement, coordinate
18 and administer a Deferred Compensation Plan for employees of the State, any county or
19 municipality, the North Carolina Community College System, and any political
20 subdivision of the State. Until so established, the Board heretofore established pursuant
21 to Executive Order XII dated November 12, 1974, shall continue in effect. Likewise, the
22 Plan heretofore established shall continue until a new plan is established.

23 (b) The Board shall consist of seven voting members, as follows:

- 24 (1) Three persons shall be appointed by the Governor who shall have
25 experience with taxation, finance and investments, one of whom shall
26 be a State employee;
- 27 (2) One member shall be appointed by the General Assembly upon
28 recommendation of the Speaker of the House of Representatives under
29 G.S. 120-121;
- 30 (3) One member shall be appointed by the General Assembly upon
31 recommendation of the President Pro Tempore of the Senate under
32 G.S. 120-121;
- 33 (4) ~~The State Treasurer~~Secretary of Administration, ex officio; and
34 (5) ~~The Secretary of Administration~~State Treasurer, ex officio, chairman.

35 (c) General Assembly appointments shall serve two year terms. A member shall
36 continue to serve until his successor is duly appointed but a holdover under this
37 provision does not affect the expiration date of the succeeding term. No member of the
38 Board may serve more than three consecutive two year terms.

39 (d) In case of a vacancy on the Board before the expiration of a member's term, a
40 successor shall be appointed within 30 days of the vacancy for the remainder of the
41 unexpired term by the appropriate official pursuant to subsection (b). Vacancies in
42 legislative appointments shall be filled under G.S. 120-122.

43 (e) Other than ex officio members, members appointed by the Governor shall
44 serve at his pleasure.

45 (f) Any ex officio member may designate in writing, filed with the Board, any
46 employee of his department to act at any meeting of the Board from which the member
47 is absent, to the same extent that the member could act if present in person at such
48 meeting.

49 (g) It shall be the duty of the Board when established to review all contracts,
50 agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order
51 XII to include, but not be limited to, such contracts, agreements or arrangements
52 pertaining to the administrative services and the investment of deferred funds under the
53 Plan for the purpose of recommending continuation of or changes to such contracts,
54 agreements or arrangements.

1 (h) It shall be the duty of the Board to devise a uniform Deferred Compensation
2 Plan for teachers and employees, which shall include a reasonable number of options to
3 the teacher or employee, for the investment of deferred funds, among which may be life
4 insurance, fixed or variable annuities and retirement income contracts, regulated
5 investment trusts, pooled investment funds managed by the Board or its designee, or
6 other forms of investment approved by the Board, always in such form as will assure the
7 desired tax treatment of such funds. The Board may alter, revise and modify the Plan
8 from time to time to improve the Plan or to conform to and comply with requirements of
9 State and federal laws and regulations relating to the deferral of compensation of
10 teachers and public employees generally.

11 (h1) Notwithstanding any other law, an employee of any county or municipality,
12 an employee of the North Carolina Community College System, or an employee of any
13 political subdivision of the State may participate in any 457 Plan adopted by the State,
14 with the consent of the Board and with the consent of the proper governing authority of
15 such county, municipality, community college, or political subdivision of the State
16 where such employee is employed.

17 (i) The Board is authorized to delegate the performance of such of its
18 administrative duties as it deems appropriate including coordination, administration, and
19 marketing of the Plan to teachers and employees. Prior to entering into any contract
20 with respect to such administrative duties, it shall seek bids, hold public hearings and in
21 general take such steps as are calculated by the Board to obtain competent, efficient and
22 worthy services for the performance of such administrative duties.

23 (j) The Board may acquire investment vehicles from any company duly
24 authorized to conduct such business in this State or may establish, alter, amend and
25 modify, to the extent it deems necessary or desirable, a trust for the purpose of
26 facilitating the administration, investment and maintenance of assets acquired by the
27 investment of deferred funds. All assets of the Plan, including all deferred amounts,
28 property and rights purchased with deferred amounts, and all income attributed thereto
29 shall be held in trust for the exclusive benefit of the Plan participants and their
30 beneficiaries.

31 (k) Members of the Board, who are not officers or employees of the State, shall
32 receive per diem and necessary travel and subsistence in accordance with the provisions
33 of G.S. 138-5, funded as provided in subsection (m) hereof.

34 (l) All clerical and other services and personnel required by the Board shall be
35 supplied by the ~~Secretary of Administration~~, Department of State Treasurer, funded as
36 provided in subsection (m) hereof.

37 (m) Investment of deferred funds shall not be unreasonably delayed, and in no
38 case shall the investment of deferred funds be delayed more than 30 days. The Board
39 may accumulate such funds pending investment, and the interest earned on such funds
40 pending investment shall be available to and may be spent in the discretion of the Board
41 only for the reasonable and necessary expenses of the Board. The ~~Secretary of~~
42 ~~Administration~~ State Treasurer is authorized to prescribe guidelines for the expenditure
43 of such funds by the Board. From time to time as the Board may direct, funds not
44 required for such expenses may be used to defray administrative expenses and fees
45 which would otherwise be required to be borne by teachers and employees who are then
46 participating in the Plan.

47 (n) A majority of the Board shall constitute a quorum for the transaction of
48 business.

49 (o) It is intended that the provisions of this Part shall be liberally construed to
50 accomplish the purposes provided for herein."

51 PART XXI. DEPARTMENT OF TRANSPORTATION

52 ONLINE DEALER REGISTRATION FUNDS

53
54

1 **SECTION 21.2.(a)** Notwithstanding the provisions of Section 28.22(b) of
2 S.L. 2005-276, for fiscal year 2006-2007, the Division of Motor Vehicles is prohibited
3 from spending any funds appropriated to it for Online Dealer Registration
4 enhancements.

5 **SECTION 21.2.(b)** This section becomes effective June 30, 2006.

6
7 **CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND**
8 **APPROPRIATIONS**

9 **SECTION 21.4.(a)** The General Assembly authorizes and certifies
10 anticipated revenues of the Highway Fund as follows:

11 For Fiscal Year 2007-2008	\$1,798.0 million
12 For Fiscal Year 2008-2009	\$1,836.2 million
13 For Fiscal Year 2009-2010	\$1,859.2 million
14 For Fiscal Year 2010-2011	\$1,872.6 million

15 **SECTION 21.4.(b)** The General Assembly authorizes and certifies
16 anticipated revenues of the Highway Trust Fund as follows:

17 For Fiscal Year 2007-2008	\$1,128.9 million
18 For Fiscal Year 2008-2009	\$1,167.8 million
19 For Fiscal Year 2009-2010	\$1,203.0 million
20 For Fiscal Year 2010-2011	\$1,235.0 million

21
22 **DEPARTMENT OF TRANSPORTATION TO PROVIDE REAL-TIME ACCESS**
23 **TO ALL WEIGH-IN-MOTION DATA PRODUCED AND TRANSMITTED**
24 **FROM WEIGH-IN-MOTION SITES THROUGHOUT THE STATE AND**
25 **PROVIDE PERIODIC SUMMARIES OF DATA COLLECTED AT**
26 **EXISTING DOT WEIGH-IN-MOTION SITES**

27 **SECTION 21.5.(a)** Of funds appropriated to the Department of
28 Transportation, the Department shall provide the State Highway Patrol real-time access
29 to all real-time data collection efforts at all existing weigh-in-motion sites by October 1,
30 2006, to include the following:

- 31 (1) Installing wireless access points at each site to allow the State
32 Highway Patrol to station troopers at or near the weigh-in-motion site,
33 capture data on a computer with software and technology capable of
34 receiving the real-time data as it is captured by the weigh-in-motion
35 site, and then take appropriate enforcement action.
- 36 (2) Providing periodic summaries of collected data to assist in monitoring
37 overweight vehicle travel volumes, habits, routes, and date and time
38 information.
- 39 (3) Acquiring any necessary software to allow the State Highway Patrol to
40 interface with the existing systems at all weigh-in-motion sites
41 throughout the State.
- 42 (4) Providing access to any new facilities constructed on DOT
43 rights-of-way that collect, monitor, seize, or capture any data related to
44 violations of weight, length, or height restrictions.

45 **SECTION 21.5.(b)** The State Highway Patrol shall report the effectiveness
46 of the access to weigh-in-motion sites, the collected data, and use of these sites as a
47 vehicle weight screening technology to increase the effectiveness of Motor Carrier
48 Enforcement activities to the Joint Legislative Transportation Oversight Committee by
49 October 1, 2006.

50
51 **FUNDS FOR ECONOMIC DEVELOPMENT, SPOT SAFETY, AND**
52 **TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS**

53 **SECTION 21.6.** Of the funds appropriated by this act to the Department of
54 Transportation in fiscal year 2006-2007, twenty-eight million dollars (\$28,000,000)
55 shall be allocated equally among the 14 Highway Divisions for economic development

1 transportation projects recommended by the member of the Board of Transportation
2 representing the Division in which the project is to be constructed in consultation with
3 the Division Engineer and approved by the Board of Transportation. Funds in each
4 Division not needed for economic development projects shall be used on spot safety
5 needs to enhance safety, reduce congestion, improve traffic flow, reduce accidents, and
6 for system preservation. Any remaining funds in each Division shall be used on
7 Transportation Improvement Program projects. The Secretary of Transportation shall
8 not prevent or delay the implementation of any projects approved by the Board of
9 Transportation pursuant to this section.

10 **REPEAL SUNSET OF OPEN CONTAINER LAW**

11 **SECTION 21.7.** Section 21 of S.L. 2000-155, as amended by Section 1 of
12 S.L. 2002-25, reads as rewritten:

13 "**SECTION 21.** Section 4 of this act is effective September 1, 2000, and expires
14 ~~September 30, 2006.~~ 2000. Sections 19 and 20 of this act are effective when those
15 sections become law. The remainder of this act becomes effective September 1, 2000,
16 and applies to offenses committed on or after that date."
17

18 **MAINTENANCE OF PERMANENT WEIGH STATIONS**

19 **SECTION 21.8.** G.S. 20-183.9 reads as rewritten:

20 "**§ 20-183.9. Establishment and maintenance of permanent weigh stations.**

21 The Department of Crime Control and Public Safety is hereby authorized,
22 empowered and directed to ~~equip, operate, and maintain equip and operate~~ permanent
23 weigh stations equipped to weigh vehicles using the streets and highways of this State to
24 determine whether such vehicles are being operated in accordance with legislative
25 enactments relating to weights of vehicles and their loads. The permanent weigh
26 stations shall be established at such locations on the streets and highways in this State as
27 will enable them to be used most advantageously in determining the weight of vehicles
28 and their loads. The Department of Transportation shall be responsible for the
29 maintenance and upkeep of all permanent weigh stations established pursuant to this
30 section."
31

32 **VIPER RADIO PROGRAM**

33 **SECTION 21.9.** The State Highway Patrol shall issue a request for a
34 proposal for the maintenance of the Voice Interoperability Plan for Emergency
35 Responders (VIPER). The bid shall be for the current system in place and shall not
36 include installation of the system.
37

38 The Criminal Justice Information Network (CJIN) shall prepare a cost
39 allocation plan for the continued construction and operation or the leasing of the VIPER
40 system that shall include proposed shared costs for installation and use by all
41 government users, including, but not limited to, the Department of Health and Human
42 Services, the State Emergency Management Division, the Wildlife Resources
43 Commission, the State Bureau of Investigation, the State Highway Patrol, and Alcohol
44 Law Enforcement, and local agencies. This plan shall include the assessment of service
45 contracts to ensure functionality and technological updates of the Viper System.

46 The CJIN shall report to the Legislative Transportation Oversight Committee,
47 the Chairs of both the Appropriations Subcommittees for Transportation and Justice and
48 Public Safety, and the Fiscal Research Division by October 1, 2006.
49

50 **CONFORM SEAT BELT LAW TO FEDERAL LAW TO PREVENT A LOSS OF** 51 **FEDERAL HIGHWAY FUNDS**

52 **SECTION 21.11.** G.S. 20-135.2A.(c) reads as rewritten:

53 "(c) This section shall not apply to any of the following:

- 54 (1) A driver or occupant of a noncommercial motor vehicle with a medical
55 or physical condition that prevents appropriate restraint by a safety belt

- 1 or with a professionally certified mental phobia against the wearing of
- 2 vehicle restraints;
- 3 (2) A motor vehicle operated by a rural letter carrier of the United States
- 4 Postal Service while performing duties as a rural letter carrier and a
- 5 motor vehicle operated by a newspaper delivery person while actually
- 6 engaged in delivery of newspapers along the person's specified route;
- 7 (3) A driver or passenger frequently stopping and leaving the vehicle or
- 8 delivering property from the vehicle if the speed of the vehicle
- 9 between stops does not exceed 20 miles per hour;
- 10 (4) Any vehicle registered and licensed as a property-carrying vehicle in
- 11 accordance with G.S. 20-88, while being used for agricultural ~~or~~
- 12 ~~commercial purposes; purposes in intrastate commerce; or~~
- 13 (5) A motor vehicle not required to be equipped with seat safety belts
- 14 under federal law."
- 15

16 **UTILIZATION OF SMALL BUSINESS ENTERPRISES IN DEPARTMENT**
 17 **PROJECTS OR THE USE OF FULLY OPERATED RENTAL EQUIPMENT**

18 **SECTION 21.12.** From funds available to the Department of Transportation,
 19 a goal of fifty million dollars (\$50,000,000) per year is established for the utilization of
 20 small business enterprises through contracts or the use of fully operated rental
 21 equipment.

22
 23 **FUNDS FOR STORMWATER PROJECTS**

24 **SECTION 21.14.** Of funds available to the Department of Transportation,
 25 fifteen million dollars (\$15,000,000) shall be transferred during the 2006-2007 fiscal
 26 year to the Department of Environment and Natural Resources for a stormwater pilot
 27 project to clean up State-maintained ocean outfalls and associated outlets through new
 28 and innovative technologies and filtering mechanisms.

29
 30 **CONSOLIDATION OF RURAL FUNDING PROGRAMS BY THE**
 31 **DEPARTMENT OF TRANSPORTATION'S PUBLIC TRANSPORTATION**
 32 **DIVISION**

33 **SECTION 21.18.** The Department of Transportation, Public Transportation
 34 Division, may consolidate its rural funding programs for vehicles, technology, and
 35 facilities into one large capital program. The Division shall have the flexibility to
 36 transfer funding from the consolidated capital program to the operating programs, based
 37 on the ability to leverage additional federal funds to meet the capital needs of rural
 38 transportation systems.

39
 40 **PART XXII. SALARIES AND EMPLOYEE BENEFITS**

41
 42 **GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES**

43 **SECTION 22.1.(a)** Effective July 1, 2006, G.S. 147-11(a) reads as
 44 rewritten:

45 "(a) The salary of the Governor shall be ~~one hundred twenty three thousand eight~~
 46 ~~hundred nineteen dollars (\$123,819)~~ one hundred thirty thousand six hundred twenty-
 47 nine dollars (\$130,629) annually, payable monthly."

48 **SECTION 22.1.(b)** Section 29.1(b) of S.L. 2005-276 reads as rewritten:

49 **"SECTION 29.1.(b)** Effective ~~July 1, 2005,~~ July 1, 2006, the annual salaries for the
 50 members of the Council of State, payable monthly, for the ~~2005-2006 and 2006-2007~~
 51 fiscal years-year are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$109,279115,289
Attorney General	109,279115,289

1	Secretary of State	109,279	115,289
2	State Treasurer	109,279	115,289
3	State Auditor	109,279	115,289
4	Superintendent of Public Instruction	109,279	115,289
5	Agriculture Commissioner	109,279	115,289
6	Insurance Commissioner	109,279	115,289
7	Labor Commissioner	109,279	115,289"

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 22.2. Section 29.2 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~2005-2006 and 2006-2007~~ fiscal ~~years-year~~ are:

	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
15	Secretary of Administration	\$106,765 112,637
16	Secretary of Correction	106,765 112,637
17	Secretary of Crime Control and Public Safety	106,765 112,637
18	Secretary of Cultural Resources	106,765 112,637
19	Secretary of Commerce	106,765 112,637
20	Secretary of Environment and Natural Resources	106,765 112,637
21	Secretary of Health and Human Services	106,765 112,637
22	Secretary of Juvenile Justice and Delinquency	106,765 112,637
23	Secretary of Revenue	106,765 112,637
24	Secretary of Transportation	106,765 112,637"

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 22.3. Section 29.3 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.3.** The annual salaries, payable monthly, for the ~~2005-2006 and 2006-2007~~ fiscal ~~years-year~~ for the following executive branch officials are:

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
32	Chairman, Alcoholic Beverage Control Commission	97,175 102,520
33	State Controller	135,997 143,477
34	Commissioner of Motor Vehicles	97,175 102,520
35	Commissioner of Banks	109,279 115,289
36	Chairman, Employment Security Commission	133,161
37	State Personnel Director	106,765 112,637
38	Chairman, Parole Commission	88,733 93,613
39	Members of the Parole Commission	40,960 43,213
40	Chairman, Utilities Commission	121,701 128,395
41	Members of the Utilities Commission	109,279 115,289
42	Executive Director, Agency for Public Telecommunications	81,921 86,427
43	Director, Museum of Art	99,573 105,050
44	Executive Director, North Carolina Agricultural Finance Authority	94,587 99,789
45	State Chief Information Officer	135,915 143,390"

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 22.4. Section 29.4 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.4.(a)** The annual salaries, payable monthly, for specified Judicial Branch officials for the ~~2005-2006 and 2006-2007~~ fiscal ~~years-year~~ are:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
--	----------------------------------	----------------------

1	Chief Justice, Supreme Court	\$123,819	130,629
2	Associate Justice, Supreme Court	120,583	127,215
3	Chief Judge, Court of Appeals	117,568	124,034
4	Judge, Court of Appeals	115,559	121,915
5	Judge, Senior Regular Resident Superior Court	112,419	118,602
6	Judge, Superior Court	109,279	115,289
7	Chief Judge, District Court	99,231	104,689
8	Judge, District Court	96,091	101,376
9	Administrative Officer of the Courts	112,419	118,602
10	Assistant Administrative Officer of the Courts	102,684	108,332"

11 **SECTION 29.4.(b)** The district attorney or public defender of a judicial district,
 12 with the approval of the Administrative Officer of the Courts or the Commission on
 13 Indigent Defense Services, respectively, shall set the salaries of assistant district
 14 attorneys or assistant public defenders, respectively, in that district such that the average
 15 salaries of assistant district attorneys or assistant public defenders in that district do not
 16 exceed ~~sixty two thousand nine hundred thirty dollars (\$62,930), sixty-six thousand~~
 17 three hundred ninety-one dollars (\$66,391), and the minimum salary of any assistant
 18 district attorney or assistant public defender is at least thirty two thousand eight hundred
 19 eighty five dollars (\$32,885), thirty-four thousand six hundred ninety-four dollars
 20 (\$34,694) effective July 1, 2005. July 1, 2006.

21 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
 22 full-time employees of the Judicial Department whose salaries are not itemized in this
 23 act shall be increased by the greater of eight hundred fifty dollars (\$850.00) or two
 24 percent (2%). Effective July 1, 2006, the annual salaries of permanent full-time
 25 employees of the Judicial Department whose salaries are not itemized in this act shall be
 26 increased by five and one-half percent (5.5%).

27 **SECTION 29.4.(d)** Effective July 1, 2005, the annual salaries of permanent,
 28 part-time employees of the Judicial Department whose salaries are not itemized in this
 29 act shall be increased by pro rata amounts of eight hundred fifty dollars (\$850.00) or
 30 two percent (2%), whichever is greater. Effective July 1, 2006, the annual salaries of
 31 permanent, part-time employees of the Judicial Department whose salaries are not
 32 itemized in this act shall be increased by five and one-half percent (5.5%)."

33
 34 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

35 **SECTION 22.5.** Effective July 1, 2006, G.S. 7A-101(a) reads as rewritten:

36 "(a) The clerk of superior court is a full-time employee of the State and shall
 37 receive an annual salary, payable in equal monthly installments, based on the population
 38 of the county as determined in subsection (a1) of this section, according to the following
 39 schedule:

40	Population	Annual Salary
41	Less than 100,000	\$73,092 \$77,112
42	100,000 to 149,999	82,021 86,532
43	150,000 to 249,999	90,952 95,954
44	250,000 and above	99,884. 105,378.

45 The salary schedule in this subsection is intended to represent the following
 46 approximate percentage of the salary of a chief district court judge:

47	Population	Annual Salary
48	Less than 100,000	73%
49	100,000 to 149,999	82%
50	150,000 to 249,999	91%
51	250,000 and above	100%.

52 When a county changes from one population group to another, the salary of the clerk
 53 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 54 salary appropriate for the new population group, except that the salary of an incumbent

1 clerk shall not be decreased by any change in population group during his continuance
 2 in office."
 3

4 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

5 **SECTION 22.6.** Effective July 1, 2006, G.S. 7A-102(c1) reads as rewritten:

6 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 7 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 8 subject to the following minimum and maximum rates:

9	Assistant Clerks and Head Bookkeeper	Annual Salary
10	Minimum	\$28,365 \$29,925
11	Maximum	48,579 <u>51,251</u>
12		
13	Deputy Clerks	Annual Salary
14	Minimum	\$24,415 \$25,758
15	Maximum	37,784 <u>39,862.</u> "

16
 17 **MAGISTRATES' SALARY INCREASES**

18 **SECTION 22.7.(a)** Effective July 1, 2006, G.S. 7A-171.1(a) reads as
 19 rewritten:

20 "(a) The Administrative Officer of the Courts, after consultation with the chief
 21 district judge and pursuant to the following provisions, shall set an annual salary for
 22 each magistrate.

- 23 (1) A full-time magistrate shall be paid the annual salary indicated in the
 24 table set out in this subdivision. A full-time magistrate is a magistrate
 25 who is assigned to work an average of not less than 40 hours a week
 26 during the term of office. The Administrative Officer of the Courts
 27 shall designate whether a magistrate is full-time. Initial appointment
 28 shall be at the entry rate. A magistrate's salary shall increase to the
 29 next step every two years on the anniversary of the date the magistrate
 30 was originally appointed for increases to Steps 1 through 3, and every
 31 four years on the anniversary of the date the magistrate was originally
 32 appointed for increases to Steps 4 through 6.

33
 34 **Table of Salaries of Full-Time Magistrates**

36	Step Level	Annual Salary
37	Entry Rate	\$28,739 \$30,320
38	Step 1	31,375 <u>33,101</u>
39	Step 2	34,243 <u>36,126</u>
40	Step 3	37,373 <u>39,429</u>
41	Step 4	40,802 <u>43,046</u>
42	Step 5	44,665 <u>47,122</u>
43	Step 6	48,997 <u>51,692.</u>

- 44 (2) A part-time magistrate is a magistrate who is assigned to work an
 45 average of less than 40 hours of work a week during the term, except
 46 that no magistrate shall be assigned an average of less than 10 hours of
 47 work a week during the term. A part-time magistrate is included, in
 48 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)
 49 and G.S. 135-40.2(a). The Administrative Officer of the Courts
 50 designates whether a magistrate is a part-time magistrate. A part-time
 51 magistrate shall receive an annual salary based on the following
 52 formula: The average number of hours a week that a part-time
 53 magistrate is assigned work during the term shall be multiplied by the
 54 annual salary payable to a full-time magistrate who has the same
 55 number of years of service prior to the beginning of that term as does

1 the part-time magistrate and the product of that multiplication shall be
 2 divided by the number 40. The quotient shall be the annual salary
 3 payable to that part-time magistrate.

- 4 (3) Notwithstanding any other provision of this subsection, a magistrate
 5 who is licensed to practice law in North Carolina or any other state
 6 shall receive the annual salary provided in the Table in subdivision (1)
 7 of this subsection for Step 4."

8 **SECTION 22.7.(b)** Effective July 1, 2006, G.S. 7A-171.1(a1) reads as
 9 rewritten:

10 "(a1) Notwithstanding subsection (a) of this section, the following salary provisions
 11 apply to individuals who were serving as magistrates on June 30, 1994:

- 12 (1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 13 level of less than five years of service under the table in effect that date
 14 shall be as follows:

15	Less than 1 year of service	\$23,175	\$24,450
16	1 or more but less than 3 years of service	24,239	<u>25,572</u>
17	3 or more but less than 5 years of service	26,380	<u>27,831</u>

18 Upon completion of five years of service, those magistrates shall
 19 receive the salary set as the Entry Rate in the table in subsection (a).

- 20 (2) The salaries of magistrates who on June 30, 1994, were paid at a salary
 21 level of five or more years of service shall be based on the rates set out
 22 in subsection (a) as follows:

23	Salary Level	Salary Level
24	on June 30, 1994	on July 1, 1994
25	5 or more but less than 7 years of service	Entry Rate
26	7 or more but less than 9 years of service	Step 1
27	9 or more but less than 11 years of service	Step 2
28	11 or more years of service	Step 3

29 Thereafter, their salaries shall be set in accordance with the
 30 provisions in subsection (a).

- 31 (3) The salaries of magistrates who are licensed to practice law in North
 32 Carolina shall be adjusted to the annual salary provided in the table in
 33 subsection (a) as Step 4, and, thereafter, their salaries shall be set in
 34 accordance with the provisions in subsection (a).

- 35 (4) The salaries of "part-time magistrates" shall be set under the formula
 36 set out in subdivision (2) of subsection (a) but according to the rates
 37 set out in this subsection."
 38

39 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

40 **SECTION 22.8.** Effective July 1, 2006, G.S. 120-37(c) reads as rewritten:

41 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
 42 entitled to other benefits available to permanent legislative employees and shall be paid
 43 an annual salary of ~~ninety two thousand three hundred twenty four dollars (\$92,324)~~
 44 ninety-seven thousand four hundred two dollars (\$97,402) payable monthly. Each
 45 principal clerk shall also receive such additional compensation as approved by the
 46 Speaker of the House of Representatives or the President Pro Tempore of the Senate,
 47 respectively, for additional employment duties beyond those provided by the rules of
 48 their House. The Legislative Services Commission shall review the salary of the
 49 principal clerks prior to submission of the proposed operating budget of the General
 50 Assembly to the Governor and Advisory Budget Commission and shall make
 51 appropriate recommendations for changes in those salaries. Any changes enacted by the
 52 General Assembly shall be by amendment to this paragraph."
 53

54 **SERGEANTS-AT-ARMS AND READING CLERKS**

55 **SECTION 22.9.** Effective July 1, 2006, G.S. 120-37(b) reads as rewritten:

1 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
2 salary of ~~three hundred twenty seven dollars (\$327.00)~~ three hundred forty-five dollars
3 (\$345.00) per week plus subsistence at the same daily rate provided for members of the
4 General Assembly, plus mileage at the rate provided for members of the General
5 Assembly for one round trip only from their homes to Raleigh and return. The
6 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
7 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
8 be authorized by the Legislative Services Commission. The reading clerks shall serve
9 during sessions only."

10 11 **LEGISLATIVE EMPLOYEES**

12 **SECTION 22.10.** Effective July 1, 2006, the Legislative Services Officer
13 shall increase the salaries of nonelected employees of the General Assembly in effect
14 for fiscal year 2005-2006 by five and one-half percent (5.5%). Nothing in this act limits
15 any of the provisions of G.S. 120-32.

16 17 **COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES**

18 **SECTION 22.11.** Section 29.11 of S.L. 2005-276 reads as rewritten:

19 "**SECTION 29.11.** The Director of the Budget shall transfer from the Reserve for
20 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
21 funds to the North Carolina Community Colleges System Office necessary to provide an
22 annual salary increase of the greater of eight hundred fifty dollars (\$850.00) or two
23 percent (2%), including funds for the employer's retirement and social security
24 contributions, commencing July 1, 2005, for all community college employees
25 supported by State funds. The Director of the Budget shall transfer from the Reserve for
26 Compensation Increases, created in this act for fiscal year 2006-2007, funds to the
27 North Carolina Community Colleges System Office necessary to provide:

- 28 (1) An annual salary increase for faculty and professional staff of six
29 percent (6%), plus a one-time two percent (2%) bonus, including funds
30 for the employer's retirement and social security contributions,
31 commencing July 1, 2006, for all community college employees
32 supported by State funds. The one-time two percent (2%) bonus
33 authorized by this section shall be made in accordance with rules
34 adopted by the State Board of Community Colleges.
35 (2) An annual increase of five and one-half percent (5.5%), including
36 funds for employer's retirement and social security contributions,
37 commencing July 1, 2006, for all other community college employees
38 supported by State funds."
39

40 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

41 **SECTION 22.12.** Section 29.12 of S.L. 2005-276 reads as rewritten:

42 "**SECTION 29.12.(a)** ~~The~~ For the 2005-2006 fiscal year, the Director of the Budget
43 shall transfer to the Board of Governors of The University of North Carolina sufficient
44 funds from the Reserve for Compensation Increases, created in this act for fiscal years
45 2005-2006 and 2006-2007, to provide an annual salary increase of the greater of eight
46 hundred fifty dollars (\$850.00) or two percent (2%), including funds for the employer's
47 retirement and social security contributions, commencing July 1, 2005, for all
48 employees of The University of North Carolina, as well as employees other than
49 teachers of the North Carolina School of Science and Mathematics, supported by State
50 funds and whose salaries are exempt from the State Personnel Act (EPA). The flat
51 dollar increase of eight hundred fifty dollars (\$850.00) shall be made to all employees
52 whose annual salary is less than or equal to forty-two thousand five hundred dollars
53 (\$42,500). The percentage annual salary increase of two percent (2%) authorized by this
54 section shall be made on an aggregated average basis, and these funds shall be allocated
55 to individuals whose annual salary is greater than forty-two thousand five hundred

1 dollars (\$42,500), according to the rules adopted by the Board of Governors of The
2 University of North Carolina or the Board of Trustees of the North Carolina School of
3 Science and Mathematics, as appropriate, and may not be used for any purpose other
4 than for salary increases and necessary employer contributions provided by this section.

5 **SECTION 29.12(a1)** For the 2006-2007 fiscal year, the Director of the
6 Budget shall transfer to the Board of Governors of The University of North Carolina
7 sufficient funds from the Reserve for Compensation Increases, created in this act for
8 fiscal year 2006-2007, to provide an annual salary increase of six percent (6%),
9 including funds for the employer's retirement and social security contributions,
10 commencing July 1, 2006, for all employees of The University of North Carolina, as
11 well as employees other than teachers of the North Carolina School of Science and
12 Mathematics, supported by State funds and whose salaries are exempt from the State
13 Personnel Act (EPA). The percentage annual salary increase of six percent (6%),
14 authorized by this section shall be made on an aggregated average basis, according to
15 the rules adopted by the Board of Governors of The University of North Carolina or the
16 Board of Trustees of the North Carolina School of Science and Mathematics, as
17 appropriate, and may not be used for any purpose other than for salary increases and
18 necessary employer contributions provided by this section.

19 **SECTION 29.12.(b)** The Director of the Budget shall transfer to the Board
20 of Governors of The University of North Carolina sufficient funds from the Reserve for
21 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
22 to provide an average annual salary increase of two and twenty-four hundredths percent
23 (2.24%), including funds for the employer's retirement and social security contributions,
24 commencing July 1, 2005, for all teaching employees of the North Carolina School of
25 Science and Mathematics, supported by State funds and whose salaries are exempt from
26 the State Personnel Act (EPA). These funds shall be allocated to individuals according
27 to the rules adopted by the Board of Trustees of the North Carolina School of Science
28 and Mathematics and may not be used for any purpose other than for salary increases
29 and necessary employer contributions provided by this section.

30 **SECTION 29.12.(b1)** The Director of the Budget shall transfer to the Board
31 of Governors of The University of North Carolina sufficient funds from the Reserve for
32 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an
33 average annual salary increase of eight percent (8%), but at least an annual increase of
34 two thousand two hundred fifty dollars (\$2,250) including funds for the employer's
35 retirement and social security contributions, commencing July 1, 2006, for all teaching
36 employees of the North Carolina School of Science and Mathematics, supported by
37 State funds and whose salaries are exempt from the State Personnel Act (EPA). These
38 funds shall be allocated to individuals according to the rules adopted by the Board of
39 Trustees of the North Carolina School of Science and Mathematics and may not be used
40 for any purpose other than for salary increases and necessary employer contributions
41 provided by this section."

42 43 UNIVERSITY FACULTY RECRUITING AND RETENTION FUND

44 **SECTION 22.12A.** Of the funds appropriated to the Reserve for
45 Compensation Increases for the 2006-2007 fiscal year, five million dollars (\$5,000,000)
46 shall be used to establish a Faculty Recruiting and Retention Fund under the Office of
47 the President of The University of North Carolina. Allocations from the fund shall be
48 made for salary increases at the discretion of the President of The University of North
49 Carolina only for the purpose of recruiting and retaining faculty members as necessary
50 at constituent institutions.

51 52 MOST STATE EMPLOYEES/SALARY INCREASES

53 **SECTION 22.13.** Section 29.13 of S.L. 2005-276 reads as rewritten:

54 **"SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
55 full-time State employees whose salaries are set in accordance with the State Personnel

1 Act and who are paid from the General Fund or the Highway Fund shall be increased,
2 effective July 1, 2005, by the greater of eight hundred fifty dollars (\$850.00) or two
3 percent (2%), unless otherwise provided by this act. Effective July 1, 2006, the salaries
4 in effect June 30, 2006, of all permanent full-time State employees whose salaries are
5 set in accordance with the State Personnel Act, and who are paid from the General Fund
6 or Highway Funds shall be increased by five and one-half percent (5.5%).

7 **SECTION 29.13.(b)** Except as otherwise provided in this act, the fiscal year
8 2005-2006 salaries for permanent full-time State officials and persons in exempt
9 positions that are recommended by the Governor or the Governor and the Advisory
10 Budget Commission and set by the General Assembly shall be increased by the greater
11 of eight hundred fifty dollars (\$850.00) or two percent (2%), effective July 1, 2005,
12 unless otherwise provided by this act. Effective July 1, 2006, the compensation of
13 permanent full-time State officials and persons in exempt positions that are
14 recommended by the Governor or the Governor and the Advisory Budget Commission
15 and set by the General Assembly shall be increased by five and one-half percent (5.5%).

16 **SECTION 29.13.(c)** The salaries in effect for fiscal year 2005-2006 for all
17 permanent part-time State employees shall be increased, effective July 1, 2005, by pro
18 rata amounts of eight hundred fifty dollars (\$850.00) or two percent (2%), whichever is
19 greater. Effective July 1, 2006, the salaries of all permanent part-time State employees
20 shall be increased by five and one-half percent (5.5%).

21 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
22 operating funds or from other sources of the employing agency, except tax revenues,
23 sufficient funds to allow ~~a salary increase, effective July 1, 2005, salary increases,~~ in
24 accordance with subsection (a), (b), or (c) of this section, including funds for the
25 employer's retirement and social security contributions, for the permanent full-time and
26 part-time employees of the agency, provided the employing agency elects to make
27 available the necessary funds.

28 **SECTION 29.13.(e)** ~~Within~~ For the 2005-2006 fiscal year, within regular
29 Executive Budget Act procedures as limited by this act, all State agencies and
30 departments may increase on an equitable basis the rate of pay of temporary and
31 permanent hourly State employees, subject to availability of funds in the particular
32 agency or department, by pro rata amounts of the greater of the eight hundred fifty
33 dollar (\$850.00) or two percent (2%) increase provided for permanent full-time
34 employees covered by the provisions of subsection (a) of this section, commencing July
35 1, 2005. For the 2006-2007 fiscal year, within regular Executive Budget Act procedures
36 as limited by this act, all State agencies and departments may increase on an equitable
37 basis the rate of pay of temporary and permanent hourly State employees, subject to
38 availability of funds in the particular agency or department, by the five and one-half
39 percent (5.5%) increase provided for permanent full-time employees covered by the
40 provisions of subsection (a) of this section, commencing July 1, 2006."

41 ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

42 **SECTION 22.14.** Section 29.14 of S.L. 2005-276 reads as rewritten:

43 **"SECTION 29.14.(a)** Salaries and related benefits for positions that are funded
44 partially from the General Fund or Highway Fund and partially from sources other than
45 the General Fund or Highway Fund shall be increased from the General Fund or
46 Highway Fund appropriation only to the extent of the proportionate part of the salaries
47 paid from the General Fund or Highway Fund.

48 **SECTION 29.14.(b)** The granting of the salary increases under this act does not
49 affect the status of eligibility for salary increments for which employees may be eligible
50 unless otherwise required by this act.

51 **SECTION 29.14.(c)** The fiscal year 2005-2006 salary increases provided in this act
52 are to be effective July 1, 2005, and do not apply to persons separated from State service
53 due to resignation, dismissal, reduction in force, death, or retirement, or whose last
54 workday is prior to July 1, 2005. The fiscal year 2006-2007 salary increases provided in
55

1 this act are to be effective July 1, 2006, and do not apply to persons separated from
2 State service due to resignation, dismissal, reduction in force, death, or retirement, or
3 whose last workday is prior to July 1, 2006.

4 Payroll checks issued to employees ~~after July 1, 2005~~, which represent payment of
5 services provided prior to ~~July 1, 2005~~, these increases shall not be eligible for salary
6 increases provided for in this act. This subsection shall apply to all employees, subject
7 to or exempt from the State Personnel Act, paid from State funds, including public
8 schools, community colleges, and The University of North Carolina.

9 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the Reserve for
10 Compensation Increases in this act for fiscal year 2005-2006 and fiscal year 2006-2007
11 all funds necessary for the salary increases provided by this act, including funds for the
12 employer's retirement and social security contributions.

13 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds between the
14 General Fund and the Highway Fund for salary increases.

15 **SECTION 29.14.(f)** ~~Permanent~~ For the 2005-2006 fiscal year, permanent full-time
16 employees who work a nine-, ten-, or eleven-month work year schedule shall receive
17 the eight hundred fifty dollars (\$850.00) or two percent (2%) annual increase provided
18 by this act, whichever is greater. For the 2006-2007 fiscal year, permanent full-time
19 employees who work a nine-, ten-, or eleven-month work year schedule shall receive
20 the five and one-half percent (5.5%) annual increase provided by this act."

21 22 SALARY ADJUSTMENT FUND

23 **SECTION 22.15.** Section 29.15 of S.L. 2005-276 reads as rewritten:

24 **"SECTION 29.15.(a)** Any remaining appropriations in the General Fund Reserve
25 for Compensation Increases authorized for employee salary increases not required for
26 that purpose may be used to supplement the General Fund Salary Adjustment Fund.
27 Fund to support salary adjustments for positions supported by the General Fund. Any
28 remaining appropriations in the Highway Fund Reserves and Transfers authorized for
29 employee salary increases not required for that purpose may be used to supplement the
30 Highway Fund Salary Adjustment Fund to support salary adjustments for positions
31 supported by the Highway Fund.

32 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the General
33 Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this
34 act or any other provision of law shall be used to fund agency requests for the following
35 purposes:

- 36 (1) Salary range ~~revisions~~ revisions, including special minimum rate
37 adjustments, to provide competitive salary rates for affected job
38 classifications in response to changes in labor market salary rates as
39 documented through data collection and analysis according to accepted
40 human resource professional practices and standards.
- 41 (2) Reallocation of positions to higher-level job classifications to
42 compensate employees for more difficult duties at competitive salary
43 rates as documented through data collection and analysis according to
44 accepted human resource professional practices and standards.

45 The terms 'salary range revision' and 'reallocation' as used in this section shall
46 conform to the definitions of those terms as previously contained in the State Personnel
47 Manual and adopted by the State Personnel Commission effective immediately prior to
48 November 1, 2005. Priority funding Funding shall be given only to those salary range
49 revisions previously approved by the State Personnel Commission and reallocations
50 previously approved by the Office of State Personnel or designee. designee on or before
51 May 1, 2006, and shall not be used for other purposes including, but not limited to,
52 in-range adjustments, career banding adjustments (whether by grade to band transfer
53 adjustments, career progression adjustments, or other similar methods), geographic
54 differentials, or other adjustments as these terms may be defined by State Personnel
55 Policy.

1 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
2 Legislative Commission on Governmental Operations prior to transferring any salary
3 adjustment funds for any State agency.

4 **SECTION 29.15.(d)** The Director of the Budget ~~may transfer may:~~

5 (1) Transfer to General Fund budget codes from the General Fund Salary
6 Adjustment Fund and may transfer to Highway Fund budget codes
7 from the Highway Fund Salary Adjustment Fund amounts required to
8 support salary adjustments authorized by this section. section, not to
9 exceed the sum of eighteen million nine hundred thousand dollars
10 (\$18,900,000), with the oldest of the pending adjustments to be funded
11 first.

12 (2) Transfer to Highway Fund budget codes from the Highway Fund
13 Salary Adjustment Fund amounts required to support salary
14 adjustments authorized by this section.

15 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding authorized
16 in subsection (a) of this section."
17

18 **SUSPEND CAREER BANDING INITIATIVE**

19 **SECTION 22.15A.(a)** Except as provided in subsection (b) of this section
20 and notwithstanding any other provision of law, the State Personnel Commission, the
21 Office of State Personnel, and each State department, agency, and institution shall
22 suspend further implementation of career banding pending subsequent action by the
23 General Assembly after its review of the State Personnel Act, including the traditional
24 graded classification system and career banding. It is the intent of the 2005 General
25 Assembly to authorize a legislative study commission to review and evaluate the
26 compensation and other personnel policies affecting employees and employing agencies
27 of State government.

28 **SECTION 22.15A.(b)** Career-banded classifications approved by the State
29 Personnel Commission on or before June 15, 2006, may continue to be implemented
30 without suspension as otherwise provided for in this section if:

- 31 (1) It is fully and completely implemented no later than February 1, 2007;
32 and
33 (2) It is implemented entirely using technical resources provided by the
34 Office of State Personnel and the affected agency or constituent
35 institution.

36 **SECTION 22.15A.(c)** Career-banded classifications already approved by the
37 State Personnel Commission on or before June 15, 2006, may be incorporated into the
38 HR/Payroll (BEACON) program development and implementation provided that such
39 inclusion will not delay completion and implementation of the program.
40

41 **IN-RANGE ADJUSTMENTS/PURPOSE CHANGE**

42 **SECTION 22.15B.** Of the funds appropriated in this act for the Department
43 of Transportation in the amount of one million dollars (\$1,000,000) for the purpose of
44 making in-range adjustments, no funds shall be available for expenditure for that
45 purpose, but only for the purposes listed in Section 29.15 of S.L. 2005-276 as amended
46 by Section 22.15 of this act.
47

48 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

49 **SECTION 22.17.** Section 29.24(c) of S.L. 2005-276 reads as rewritten:

50 **"SECTION 29.24.(c)** Effective July 1, 2006, the State's employer contribution rates
51 budgeted for retirement and related benefits as percentage of covered salaries for the
52 2006-2007 fiscal year are: (i) ~~six and eighty two hundredths percent (6.82%)~~ seven and
53 fourteen hundredths percent (7.14%) – Teachers and State Employees; (ii) ~~eleven and~~
54 ~~eighty two hundredths percent (11.82%)~~ twelve and fourteen hundredths percent
55 (12.14%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent

1 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and sixteen
2 hundredths percent (11.16%) – Community College Optional Retirement Program; (v)
3 sixteen and thirty-nine hundredths percent (16.39%) – Consolidated Judicial Retirement
4 System; and (vi) three and eight-tenths percent (3.8%) – Legislative Retirement System.
5 Each of the foregoing contribution rates includes three and eight-tenths percent (3.8%)
6 for hospital and medical benefits. The rate for Teachers and State Employees, State Law
7 Enforcement Officers, Community College Optional Retirement Program, and for the
8 University Employees' Optional Retirement Program includes fifty-two hundredths
9 percent (0.52%) for the Disability Income Plan. The rates for Teachers and State
10 Employees and State Law Enforcement Officers include sixteen hundredths percent
11 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers
12 includes five percent (5%) for Supplemental Retirement Income."
13

14 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
15 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
16 **JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE**
17 **RETIREMENT SYSTEM**

18 **SECTION 22.18.(a).** G.S. 135-5 is amended by adding a new subsection to
19 read:

20 "(ooo) From and after July 1, 2006, the retirement allowance to or on account of
21 beneficiaries whose retirement commenced on or before July 1, 2005, shall be increased
22 by three percent (3%) of the allowance payable on June 1, 2006, in accordance with
23 G.S. 135-5(o). Furthermore, from and after July 1, 2006, the retirement allowance to or
24 on account of beneficiaries whose retirement commenced after July 1, 2005, but before
25 June 30, 2006, shall be increased by a prorated amount of three percent (3%) of the
26 allowance payable as determined by the Board of Trustees based upon the number of
27 months that a retirement allowance was paid between July 1, 2005, and June 30, 2006."

28 **SECTION 22.18.(b)** G.S. 120-4.22A is amended by adding a new
29 subsection to read:

30 "(u) In accordance with subsection (a) of this section, from and after July 1, 2006,
31 the retirement allowance to or on account of beneficiaries whose retirement commenced
32 on or before January 1, 2006, shall be increased by three percent (3%) of the allowance
33 payable on June 1, 2006. Furthermore, from and after July 1, 2006, the retirement
34 allowance to or on account of beneficiaries whose retirement commenced after January
35 1, 2006, but before June 30, 2006, shall be increased by a prorated amount of three
36 percent (3%) of the allowance payable as determined by the Board of Trustees based
37 upon the number of months that a retirement allowance was paid between January 1,
38 2006, and June 30, 2006."

39 **SECTION 22.18.(c)** G.S. 135-65 is amended by adding a new subsection to
40 read:

41 "(aa) From and after July 1, 2006, the retirement allowance to or on account of
42 beneficiaries whose retirement commenced on or before July 1, 2005, shall be increased
43 by three percent (3%) of the allowance payable on June 1, 2006. Furthermore, from and
44 after July 1, 2006, the retirement allowance to or on account of beneficiaries whose
45 retirement commenced after July 1, 2005, but before June 30, 2006, shall be increased
46 by a prorated amount of three percent (3%) of the allowance payable as determined by
47 the Board of Trustees based upon the number of months that a retirement allowance was
48 paid between July 1, 2005, and June 30, 2006."

49
50 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
51 **AND RESCUE SQUAD WORKERS' PENSION FUND**

52 **SECTION 22.19.** G.S. 58-86-55 reads as rewritten:

53 **"§ 58-86-55. Monthly pensions upon retirement.**

54 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
55 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and

1 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
2 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
3 ~~sixty three dollars (\$163.00)~~ one hundred sixty-five dollars (\$165.00) per month. Any
4 retired fireman receiving a pension shall, effective ~~July 1, 2005,~~ July 1, 2006, receive a
5 pension of ~~one hundred sixty three dollars (\$163.00)~~ one hundred sixty-five dollars
6 (\$165.00) per month.

7 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
8 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
9 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
10 pension hereunder until the member's official duties as a fireman or rescue squad
11 worker for which the member is paid compensation shall have been terminated and the
12 member shall have retired as such according to standards or rules fixed by the board of
13 trustees.

14 A member who is totally and permanently disabled while in the discharge of the
15 member's official duties as a result of bodily injuries sustained or as a result of extreme
16 exercise or extreme activity experienced in the course and scope of those official duties
17 and who leaves the fire or rescue squad service because of this disability shall be
18 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
19 ~~sixty three dollars (\$163.00)~~ one hundred sixty-five dollars (\$165.00) per month
20 beginning the first month after the member's fifty-fifth birthday. All applications for
21 disability are subject to the approval of the board who may appoint physicians to
22 examine and evaluate the disabled member prior to approval of the application, and
23 annually thereafter. Any disabled member shall not be required to make the monthly
24 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

25 A member who is totally and permanently disabled for any cause, other than line of
26 duty, who leaves the fire or rescue squad service because of this disability and who has
27 at least 10 years of service with the pension fund, may be permitted to continue making
28 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
29 contributions for a total of 240 months. The member shall upon attaining the age of 55
30 years be entitled to receive a pension as provided by this section. All applications for
31 disability are subject to the approval of the board who may appoint physicians to
32 examine and evaluate the disabled member prior to approval of the application and
33 annually thereafter.

34 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
35 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
36 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
37 of the General Statutes, or whose volunteer department is taken over by a city or county,
38 and because of such annexation or takeover is unable to perform as a fireman or rescue
39 squad worker of any status, and if the member has at least 10 years of service with the
40 pension fund, may be permitted to continue making a monthly contribution of ten
41 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
42 months. The member upon attaining the age of 55 years and completion of such
43 contributions shall be entitled to receive a pension as provided by this section. Any
44 application to make monthly contributions under this section shall be subject to a
45 finding of eligibility by the Board of Trustees upon application of the member.

46 The pensions provided shall be in addition to all other pensions or benefits under any
47 other statutes of the State of North Carolina or the United States, notwithstanding any
48 exclusionary provisions of other pensions or retirement systems provided by law."
49

50 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
51 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

52 **SECTION 22.20.** G.S. 127A-40(a) reads as rewritten:

53 "(a) Every member and former member of the North Carolina national guard who
54 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
55 pension of ~~seventy five dollars (\$75.00)~~ eighty dollars (\$80.00) per month for 20 years'

1 creditable military service with an additional ~~seven dollars and fifty cents (\$7.50)~~ eight
 2 dollars (\$8.00) per month for each additional year of such service; provided, however,
 3 that the total pension shall not exceed ~~one hundred fifty dollars (\$150.00)~~ one hundred
 4 sixty dollars (\$160.00) per month. The requirements for such pension are that each
 5 member shall:

- 6 (1) Have served and qualified for at least 20 years' creditable military
 7 service, including national guard, reserve and active duty, under the
 8 same requirement specified for entitlement to retired pay for
 9 nonregular service under Chapter 67, Title 10, United States Code.
- 10 (2) Have at least 15 years of the aforementioned service as a member of
 11 the North Carolina national guard.
- 12 (3) Have received an honorable discharge from the North Carolina
 13 national guard."
 14

15 **EXTEND PHASED RETIREMENT PROGRAM EXEMPTION**

16 **SECTION 22.21.** Section 29.28(f) of S.L. 2005-276 reads as rewritten:

17 "**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective
 18 August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but
 19 does not apply to participants in The University of North Carolina Phased Retirement
 20 Program until ~~June 30, 2007~~ the earlier of June 30, 2010, or 12 months after the
 21 issuance of final phased retirement regulations by the Internal Revenue Service. The
 22 remainder of this section becomes effective June 30, 2005."
 23

24 **PART XXIII. CAPITAL APPROPRIATIONS**

25 **CAPITAL APPROPRIATIONS/GENERAL FUND**

26 **SECTION 23.1.** There is appropriated from the General Fund for the
 27 2006-2007 fiscal year the following amounts for capital improvements:
 28

29 Capital Improvements – General Fund	2006-2007
30	
31	
32 Department of Administration	
33 Veterans Affairs Nursing Homes	\$8,773,300
34 State Facilities Master Plan	1,000,000
35	
36 Department of Agriculture and Consumer Services	
37 Rollins Laboratory – Bio Security Level 2 Lab Conversion	250,000
38 Oxford Complex Planning Funds	1,000,000
39	
40 Department of Commerce	
41 NC Ports Authority Container Cranes	7,500,000
42	
43 Department of Crime Control and Public Safety	
44 Emergency Management Operations Center	8,500,000
45 Marion Transportation Center Motor Fleet Lot	222,700
46	
47 Department of Cultural Resources	
48 North Carolina History Education Center at Tryon Palace	
49 Historic Site and Gardens Planning Funds	1,500,000
50	
51 Department of Environment and Natural Resources	
52 Hickory Nut Gorge Expansion	15,000,000
53 Water Resources Development Projects	20,000,000
54 NC Zoo Storage Shed	452,800
55 Forest Resources District 9 Headquarters	2,164,500

1		
2	University of North Carolina System	
3	Appalachian State University College of Education	
4	Building Planning Funds	1,820,000
5		
6	Fayetteville State University Science and Technology	
7	Complex Planning Funds	1,000,000
8		
9	North Carolina Agricultural and Technical State	
10	University General Classroom Facility Planning Funds	1,000,000
11		
12	North Carolina School of the Arts Library Planning Funds	1,000,000
13		
14	North Carolina State University Engineering Complex III	61,000,000
15		
16	University of North Carolina at Chapel Hill Genomics	
17	Science Building Planning and Site Development Funds	28,391,775
18		
19	UNC Hospitals at Chapel Hill Master Facilities Plan	3,000,000
20		
21	University of North Carolina at Greensboro Academic	
22	Classroom and Office Building Planning Funds	2,300,000
23		
24	University of North Carolina at Pembroke Residence	
25	Hall Planning Funds	1,000,000
26		
27	University of North Carolina at Wilmington	
28	School of Nursing	27,000,000
29		
30	Western Carolina University School of Health and	
31	Gerontological Building Planning Funds	2,400,000
32		
33	Winston-Salem State University Student Activities	
34	Center Planning Funds	768,225
35		
36	Board of Governors	
37	Dental Schools Study and Planning Funds	7,000,000
38	Reserve for Capital Cost Overruns	2,300,000
39		
40	TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$206,343,300

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 23.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	2006-2007
46		
47	(1) Wilmington Harbor Deepening	\$ 5,275,000
48	(2) Morehead City Harbor Sand Management	1,200,000
49	(3) Manteo (Shallowbag) Bay Channel Maintenance	-
50	(4) Wilmington Harbor Maintenance Dredging	-
51	(5) Morehead City Harbor Maintenance Dredging	0
52	(6) Carolina Beach Renourishment	1,125,000
53	(7) Carolina Beach Renourishment (Kure Beach)	681,000
54	(8) Brunswick County Beaches Study	0
55	(9) Ocean Isle Beach Renourishment (Brunswick County)	435,000

1	(10)	Beaufort Harbor Maintenance Dredging	300,000
2	(11)	B. Everett Jordan Reservoir Water Supply Storage	100,000
3	(12)	Aquatic Weed Control – Lake Gaston and Statewide	400,000
4	(13)	Waterway Connecting Pamlico Sound to Beaufort Harbor (Carteret)	400,000
5	(14)	John H. Kerr Reservoir Operations Evaluation	188,000
6	(15)	Currituck Sound Water Management Study	386,000
7	(16)	Surf City / North Topsail Beach Protection Study	-
8	(17)	West Onslow Beach (Topsail) Study (Pender County)	85,000
9	(18)	Hurricane Stream Restoration – Western NC (Phase II)	2,000,000
10	(19)	Hurricane Isabel Emergency Management	
11		Stream Cleanup (Phase III)	850,000
12	(20)	Bogue Banks Shore Protection Study (Carteret County)	-
13	(21)	Neuse River Basin Study	280,000
14	(22)	Beach and Inlet Management Study	500,000
15	(23)	Dredging Contingency Fund	2,295,000
16	(24)	Topsail Beach Renourishment	1,000,000
17	(25)	State – Local Projects	2,500,000
18		TOTALS	\$ 20,000,000

19 **SECTION 23.2.(b)** Where the actual costs are different from the estimated
20 costs under subsection (a) of this section, the Department may adjust the allocations
21 among projects as needed. If any projects funded under subsection (a) of this section are
22 delayed and the budgeted State funds cannot be used during the 2006-2007 fiscal year,
23 or if the projects funded under subsection (a) of this section are accomplished at a lower
24 cost, the Department may use the resulting fund availability to fund any of the
25 following:

- 26 (1) U.S. Army Corps of Engineers project feasibility studies.
- 27 (2) U.S. Army Corps of Engineers projects whose schedules have
- 28 advanced and require State-matching funds in fiscal year 2006-2007.
- 29 (3) State-local water resources development projects.
- 30 Funds not expended or encumbered for these purposes shall revert to the
- 31 General Fund at the end of the 2007-2008 fiscal year.

32 **SECTION 23.2.(c)** The Department shall make semiannual reports on the
33 use of these funds to the Joint Legislative Commission on Governmental Operations,
34 the Fiscal Research Division, and the Office of State Budget and Management. Each
35 report shall include all of the following:

- 36 (1) All projects listed in this section.
- 37 (2) The estimated cost of each project.
- 38 (3) The date that work on each project began or is expected to begin.
- 39 (4) The date that work on each project was completed or is expected to be
- 40 completed.
- 41 (5) The actual cost of each project.

42 The semiannual reports shall also show those projects advanced in schedule,
43 those projects delayed in schedule, and an estimate of the amount of funds expected to
44 revert to the General Fund.

45
46 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

47 **SECTION 23.3.(a)** Of the funds in the Reserve for Repairs and Renovations
48 for the 2006-2007 fiscal year, forty-six percent (46%) shall be allocated to the Board of
49 Governors of The University of North Carolina for repairs and renovations pursuant to
50 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
51 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
52 approved by the Board of Governors of The University of North Carolina, and fifty-four
53 percent (54%) shall be allocated to the Office of State Budget and Management for
54 repairs and renovations pursuant to G.S. 143-15.3A.

1 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
2 for the repair and renovation of facilities not supported from the General Fund if the
3 Board determines that sufficient funds are not available from other sources and that
4 conditions warrant General Fund assistance. Any such finding shall be included in the
5 Board's submission to the Joint Legislative Commission on Governmental Operations
6 on the proposed allocation of funds.

7 The Board of Governors and the Office of State Budget and Management
8 shall consult with the Joint Legislative Commission on Governmental Operations prior
9 to the allocation or reallocation of these funds.

10 **SECTION 23.3.(b)** Of the funds allocated to the Office of State Budget and
11 Management in subsection (a) of this section:

- 12 (1) Up to eleven million eight hundred thousand dollars (\$11,800,000) for
13 the 2006-2007 fiscal year shall be used for eligible repair and
14 renovation projects in preparation for the construction of the Regional
15 Medical Center and Mental Health Center in the Department of
16 Correction.
- 17 (2) Up to two million eight hundred thousand dollars (\$2,800,000) shall be
18 used for repairs and renovations of facilities located on the grounds of
19 the Palmer Memorial Institute State Historic Site.

20 **SECTION 23.3.(c)** Of the funds allocated to the Board of Governors of The
21 University of North Carolina in subsection (a) of this section, funds shall be used for
22 projects at constituent institutions as follows:

- 23 (1) Up to one million nine hundred thousand dollars (\$1,900,000) for the
24 2006-2007 fiscal year shall be used for parking and road repairs and
25 improvements at Elizabeth City State University.
- 26 (2) Up to six million four hundred thousand dollars (\$6,400,000) for the
27 2006-2007 fiscal year shall be used for replacement and repair of
28 steam lines and steam tunnels at North Carolina Central University.
- 29 (3) Up to four hundred sixteen thousand dollars (\$416,000) for the
30 2006-2007 fiscal year shall be used for planning for eligible repair and
31 renovation projects at Rhodes Hall at the University of North Carolina
32 at Asheville.

33 The amount of funding a constituent institution is allocated under this subsection shall
34 offset the amount the constituent institution receives under subsection (a) of this section.
35

36 STATE FACILITIES MASTER PLAN

37 **SECTION 23.10.(a)** Funds are appropriated in this act to the Department of
38 Administration to develop a new master plan for State facilities. In developing this
39 master plan, the Department shall address the following as it relates to State operations
40 in Wake County:

- 41 (1) Inventory existing State real property, including land, buildings, and
42 land allocations to State agencies.
- 43 (2) Inventory lease space occupied by State agencies.
- 44 (3) Survey State agencies' capital improvement needs, including the
45 State's Six-Year Capital Improvement Plan.
- 46 (4) Project the growth in personnel needed to support State operations.
- 47 (5) Analyze State agencies' existing facilities and requested capital
48 improvements against program missions, goals, and operations.
- 49 (6) Recommend a facilities master plan for State operations that meets the
50 facilities needs of State agencies and makes efficient use of State land
51 and buildings.
- 52 (7) Recommend State agency operations that should be relocated from the
53 City of Raleigh to achieve subdivision (6) of this subsection.
- 54 (8) Recommend a transit plan for State operations that may include the use
55 of parking structures, public transit, and park and ride facilities.

- 1 (9) Recommend an implementation plan for the facilities master plan. The
2 implementation plan shall include the sequencing of proposed capital
3 improvement projects and a proposal for financing the facilities master
4 plan. The implementation plan shall be consistent with capital
5 planning efforts in the Office of State Budget and Management.

6 **SECTION 23.10.(b)** To the extent that funds are available to do so, the
7 Department of Administration shall expand the scope of the facilities master plan to
8 include State operations outside of Wake County.

9 **SECTION 23.10.(c)** The Department of Administration shall deliver the
10 facilities master plan to the Joint Legislative Oversight Committee on Capital
11 Improvements by October 1, 2007.

12 **SECTION 23.10.(d)** Of the funds appropriated in this act to the General
13 Assembly, Legislative Services Commission, the sum of sixty thousand dollars
14 (\$60,000) shall be allocated to the Dorothea Dix Hospital Property Study Commission
15 to be used to contract for land use consultant services to review, analyze, and make
16 recommendations regarding the following in relation to the Dorothea Dix Hospital
17 Property:

- 18 (1) Funding options for compatible uses of open space, the adaptive re-use
19 of existing facilities, and continued support for mental health services;
20 (2) The financial feasibility of the uses under subdivision (1) of this
21 subsection;
22 (3) An assessment of financial mechanisms for the implementation and
23 maintenance of the uses under subdivision (1) of this subsection; and
24 (4) Administrative or governance structures to implement the uses under
25 subdivision (1) of this subsection.

26 The consultant shall submit its work product to the Dorothea Dix Hospital Property
27 Study Commission no later than November 1, 2006. The Commission shall review the
28 plan and make recommendations upon the convening of the 2007 Regular Session of the
29 2007 General Assembly.

30 **UNC-CH/ECU DENTAL SCHOOLS**

31 **SECTION 23.11.(a)** Of the funds appropriated by this act to the Board of
32 Governors of The University of North Carolina for the 2006-2007 fiscal year the sum of
33 seven million dollars (\$7,000,000) shall be used as follows: (i) to complete the plan and
34 design for expanding the School of Dentistry at the University of North Carolina at
35 Chapel Hill, (ii) to conduct a study regarding the feasibility of establishing a School of
36 Dentistry at East Carolina University and the impact that the School would have on the
37 other dental programs provided by The University of North Carolina, and (iii) if the
38 Board of Governors determines that it is appropriate to establish a School of Dentistry at
39 East Carolina University based on the findings and recommendations of the feasibility
40 study, to provide advance planning funds to East Carolina University for the capital
41 improvements needed to establish a new dental school. The funds allocated by this
42 section to East Carolina University shall be held in reserve by the Board of Governors
43 and shall be allocated to East Carolina University only if the Board of Governors
44 decides that it is appropriate to establish a School of Dentistry at that University.

45 **SECTION 23.11.(b)** The Board of Governors may contract with a private
46 consultant to conduct the feasibility study required by subsection (a) of this section.
47

48 **SPECIAL INDEBTEDNESS PROJECTS**

49 **SECTION 23.12.(a)** In accordance with G.S. 142-83, this subsection
50 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
51 principal amount of forty million dollars (\$40,000,000) to finance the costs of
52 constructing new buildings and pavilions and renovating existing buildings at the North
53 Carolina Museum of Art. The State, with the prior approval of the State Treasurer and
54 the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is
55

1 authorized to issue or incur special indebtedness in order to provide funds to the State to
2 be used, together with other available funds, to pay the costs of constructing and
3 renovating the project described in this subsection.

4 **SECTION 23.12.(b)** In accordance with G.S. 142-83, this subsection
5 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
6 principal amount of twenty million dollars (\$20,000,000) to finance the capital facility
7 costs of completing the Central Regional Psychiatric Hospital for the Department of
8 Health and Human Services. The State, with the prior approval of the State Treasurer
9 and the Council of State, as provided in Article 9 of Chapter 142 of the General
10 Statutes, is authorized to issue or incur special indebtedness in order to provide funds to
11 the State to be used, together with other available funds, to pay the capital facility costs
12 of the project described in this subsection.

13 **SECTION 23.12.(c)** In accordance with G.S. 142-83, this subsection
14 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
15 principal amount of twenty-four million eight hundred forty-one thousand three hundred
16 dollars (\$24,841,300) to finance the capital facility costs of a new Secondary State Data
17 Center. The State, with the prior approval of the State Treasurer and the Council of
18 State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to
19 issue or incur special indebtedness in order to provide funds to the State to be used,
20 together with other available funds, to pay the capital facility costs of the project
21 described in this subsection.

22 **SECTION 23.12.(d)** In accordance with G.S. 142-83, this subsection
23 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
24 principal amount of forty-five million eight hundred twenty-seven thousand four
25 hundred dollars (\$45,827,400) to finance the capital facility costs of a new Center City
26 Classroom Building at the University of North Carolina – Charlotte. The State, with the
27 prior approval of the State Treasurer and the Council of State, as provided in Article 9
28 of Chapter 142 of the General Statutes, is authorized to issue or incur special
29 indebtedness in order to provide funds to the State to be used, together with other
30 available funds, to pay the capital facility costs of the project described in this
31 subsection.

32 **SECTION 23.12.(e)** In accordance with G.S. 142-83, this subsection
33 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
34 principal amount of one hundred one million dollars (\$101,000,000) to finance the
35 capital facility costs of the Department of Health and Human Services Public Health
36 Laboratory and Office of Chief Medical Examiner. The State, with the prior approval of
37 the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of
38 the General Statutes, is authorized to issue or incur special indebtedness in order to
39 provide funds to the State to be used, together with other available funds, to pay the
40 capital facility costs of the project described in this subsection. No more than a
41 maximum aggregate principal amount of twenty million dollars (\$20,000,000) of special
42 indebtedness may be issued or incurred under this subsection prior to July 1, 2007.

43 **SECTION 23.12.(f)** In accordance with G.S. 142-83, this subsection
44 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
45 principal amount of one hundred forty-five million five hundred thousand dollars
46 (\$145,500,000) to finance the capital facility costs of the Eastern Regional Psychiatric
47 Hospital for the Department of Health and Human Services. The State, with the prior
48 approval of the State Treasurer and the Council of State, as provided in Article 9 of
49 Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness
50 in order to provide funds to the State to be used, together with other available funds, to
51 pay the capital facility costs of the project described in this subsection. No more than a
52 maximum aggregate principal amount of twenty million dollars (\$20,000,000) of special
53 indebtedness may be issued or incurred under this subsection prior to July 1, 2007. No
54 more than a maximum aggregate principal amount of one hundred million dollars

1 (\$100,000,000) of special indebtedness may be issued or incurred under this subsection
2 prior to July 1, 2008.

3 **SECTION 23.12.(g)** In accordance with G.S. 142-83, this subsection
4 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
5 principal amount of one hundred thirty-two million two hundred thousand dollars
6 (\$132,200,000) to finance the capital facility costs of the Regional Medical Center and
7 Mental Health Center of the Department of Correction. The State, with the prior
8 approval of the State Treasurer and the Council of State, as provided in Article 9 of
9 Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness
10 in order to provide funds to the State to be used, together with other available funds, to
11 pay the capital facility costs of the project described in this subsection. No more than a
12 maximum aggregate principal amount of eight million two hundred thousand dollars
13 (\$8,200,000) of special indebtedness may be issued or incurred under this subsection
14 prior to July 1, 2007. No more than a maximum aggregate principal amount of
15 fifty-eight million two hundred thousand dollars (\$58,200,000) of special indebtedness
16 may be issued or incurred under this subsection prior to July 1, 2008. No more than a
17 maximum aggregate principal amount of ninety-eight million two hundred thousand
18 dollars (\$98,200,000) of special indebtedness may be issued or incurred under this
19 subsection prior to July 1, 2009.

20 **SECTION 23.12.(h)** In accordance with G.S. 142-83, this subsection
21 authorizes the issuance or incurrence of special indebtedness in the maximum aggregate
22 principal amount of one hundred sixty-two million eight hundred thousand dollars
23 (\$162,800,000) to finance the capital facility costs of the Western Regional Psychiatric
24 Hospital for the Department of Health and Human Services. The State, with the prior
25 approval of the State Treasurer and the Council of State, as provided in Article 9 of
26 Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness
27 in order to provide funds to the State to be used, together with other available funds, to
28 pay the capital facility costs of the project described in this subsection. No special
29 indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No
30 more than a maximum aggregate principal amount of twenty million dollars
31 (\$20,000,000) of special indebtedness may be issued or incurred under this subsection
32 prior to July 1, 2009.

33 **SECTION 23.12.(i)** This section is effective when it becomes law.
34

35 PART XXIV. TAX REDUCTIONS

36 REDUCE SALES TAX RATE EARLY

37 **SECTION 24.1.(a)** Section 34.13(c) of S.L. 2001-424, as amended by
38 Section 38.1 of S.L. 2003-284, Section 9.1 of S.L. 2005-144, and Section 33.1 of S.L.
39 2005-276, reads as rewritten:
40

41 **"SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
42 to sales made on or after that date. ~~This section is repealed effective for sales made on~~
43 ~~or after July 1, 2007.~~ This section does not affect the rights or liabilities of the State, a
44 taxpayer, or another person arising under a statute amended or repealed by this section
45 before the effective date of its amendment or repeal; nor does it affect the right to any
46 refund or credit of a tax that accrued under the amended or repealed statute before the
47 effective date of its amendment or repeal."
48

49 **SECTION 24.1.(b)** G.S. 105-164.4(a), as amended by subsection (a) of this
50 section, reads as rewritten:

51 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
52 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
53 four and ~~one-half percent (4 1/2%)~~ one-quarter percent (4.25%).

54 ..."

55 **SECTION 24.1.(c)** G.S. 105-164.4(a), as amended by subsections (a) and
(b) of this section, reads as rewritten:

1 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
2 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
3 four ~~and one-quarter percent (4.25%)~~ percent (4%).

4 ..."

5 **SECTION 24.1.(d)** If House Bill 2047, 2005 General Assembly, does not
6 become law, then G.S. 105-164.44F(a) reads as rewritten:

7 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
8 imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must
9 make the distribution within 75 days after the end of each calendar quarter. The amount
10 the Secretary must distribute is ~~eighteen and three one-hundredths percent (18.03%)~~
11 eighteen and seventy one-hundredths percent (18.70%) of the net proceeds of the taxes
12 collected during the quarter, minus two million six hundred twenty thousand nine
13 hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual
14 amount by which the distribution to cities of the gross receipts franchise tax on
15 telephone companies, imposed by former G.S. 105-120, was required to be reduced
16 beginning in fiscal year 1995-96 as a result of the "freeze deduction." The Secretary
17 must distribute the specified percentage of the proceeds, less the "freeze deduction"
18 among the cities in accordance with this section."

19 **SECTION 24.1.(e)** If House Bill 2047, 2005 General Assembly, does not
20 become law, then G.S. 105-164.44F(a), as amended by subsection (d) of this section,
21 reads as rewritten:

22 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
23 imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must
24 make the distribution within 75 days after the end of each calendar quarter. The amount
25 the Secretary must distribute is ~~eighteen and seventy one-hundredths percent~~
26 ~~(18.70%)~~ nineteen and forty-two one-hundredths percent (19.42%) of the net proceeds of
27 the taxes collected during the quarter, minus two million six hundred twenty thousand
28 nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the
29 annual amount by which the distribution to cities of the gross receipts franchise tax on
30 telephone companies, imposed by former G.S. 105-120, was required to be reduced
31 beginning in fiscal year 1995-96 as a result of the "freeze deduction." The Secretary
32 must distribute the specified percentage of the proceeds, less the "freeze deduction"
33 among the cities in accordance with this section."

34 **SECTION 24.1.(f)** If House Bill 2047, 2005 General Assembly, becomes
35 law, then G.S. 105-164.44F(a) reads as rewritten:

36 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
37 G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the
38 distribution within 75 days after the end of each calendar quarter. The amount the
39 Secretary must distribute is the following percentages of the net proceeds of the taxes
40 collected during the quarter:

- 41 (1) Eighteen and ~~three one-hundredths percent (18.03%)~~ seventy
42 one-hundredths percent (18.70%) minus two million six hundred
43 twenty thousand nine hundred forty-eight dollars (\$2,620,948), must
44 be distributed to cities in accordance with this section. The deduction
45 is one-fourth of the annual amount by which the distribution to cities
46 of the gross receipts franchise tax on telephone companies, imposed by
47 former G.S. 105-20, was required to be reduced beginning in fiscal
48 year 1995-96 as a result of the "freeze deduction."
49 (2) Seven and ~~twenty three one-hundredths~~ seven-tenths percent ~~(7.23%)~~
50 (7.7%) must be distributed to counties and cities as provided in
51 G.S. 105-164.44I."

52 **SECTION 24.1.(g)** If House Bill 2047, 2005 General Assembly, becomes
53 law, then G.S. 105-164.44F(a), as amended by subsection (f) of this section, reads as
54 rewritten:

1 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
2 G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the
3 distribution within 75 days after the end of each calendar quarter. The amount the
4 Secretary must distribute is the following percentages of the net proceeds of the taxes
5 collected during the quarter:

- 6 (1) ~~Eighteen and seventy one hundredths percent (18.70%)~~ Nineteen and
7 forty-two one-hundredths percent (19.42%) minus two million six
8 hundred twenty thousand nine hundred forty-eight dollars
9 (\$2,620,948), must be distributed to cities in accordance with this
10 section. The deduction is one-fourth of the annual amount by which
11 the distribution to cities of the gross receipts franchise tax on telephone
12 companies, imposed by former G.S. 105-20, was required to be
13 reduced beginning in fiscal year 1995-96 as a result of the "freeze
14 deduction."
15 (2) ~~Seven and seven tenths percent (7.7%)~~ Eight percent (8%) must be
16 distributed to counties and cities as provided in G.S. 105-164.44I."

17 **SECTION 24.1.(h)** If House Bill 2047, 2005 General Assembly, becomes
18 law, then G.S. 105-164.44I(a) reads as rewritten:

19 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
20 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
21 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
22 distribution within 75 days after the end of each calendar quarter. The amount the
23 Secretary must distribute is the sum of the revenue listed in this subsection. The
24 Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance
25 with subsection (b) of this section and the remainder in accordance with subsections (c)
26 and (d) of this section. The revenue to be distributed under this section consists of the
27 following:

- 28 (1) The amount specified in G.S. 105-164.44F(a)(2).
29 (2) ~~Twenty two and sixty one one hundredths percent~~
30 ~~(22.61%)~~ Twenty-three and six tenths percent (23.6%) of the net
31 proceeds of the taxes collected during the quarter on video
32 programming, other than on direct-to-home satellite service.
33 (3) ~~Thirty-seven and one tenths percent (37%)~~ (37.1%) of the net proceeds
34 of the taxes collected during the quarter on direct-to-home satellite
35 service."

36 **SECTION 24.1.(i)** If House Bill 2047, 2005 General Assembly, becomes
37 law, then G.S. 105-164.44I(a), as amended by subsection (h) of this section, reads as
38 rewritten:

39 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
40 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
41 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
42 distribution within 75 days after the end of each calendar quarter. The amount the
43 Secretary must distribute is the sum of the revenue listed in this subsection. The
44 Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance
45 with subsection (b) of this section and the remainder in accordance with subsections (c)
46 and (d) of this section. The revenue to be distributed under this section consists of the
47 following:

- 48 (1) The amount specified in G.S. 105-164.44F(a)(2).
49 (2) ~~Twenty three and six tenths percent (23.6%)~~ Twenty-five percent
50 (25%) of the net proceeds of the taxes collected during the quarter on
51 video programming, other than on direct-to-home satellite service.
52 (3) ~~Thirty-seven and one tenths five tenths percent (37.1%)~~ (37.5%) of the
53 net proceeds of the taxes collected during the quarter on
54 direct-to-home satellite service."

1 **SECTION 24.1.(j)** Subsection (b) of this section becomes effective
 2 December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f),
 3 and (h) of this section become effective January 1, 2007, and apply to taxes collected on
 4 or after that date. Subsection (c) of this section becomes effective July 1, 2007, and
 5 applies to sales made on or after that date. Subsections (e), (g), and (i) of this section
 6 become effective July 1, 2007, and apply to taxes collected on or after that date. The
 7 remainder of this section is effective when it becomes law.

8
 9 **REDUCE INCOME TAX RATE APPLICABLE TO MOST SMALL**
 10 **BUSINESSES EARLY**

11 **SECTION 24.2.(a)** Section 39.1 of S.L. 2003-284, as amended by Section
 12 36.1(a) of S.L. 2005-276, is repealed.

13 **SECTION 24.2.(b)** G.S. 105-134.2(a), as amended by subsection (a) of this
 14 section, reads as rewritten:

15 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
 16 The tax shall be levied, collected, and paid annually and shall be computed at the
 17 following percentages of the taxpayer's North Carolina taxable income.

- 18 (1) For married individuals who file a joint return under G.S. 105-152 and
 19 for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000	7.75%
\$200,000	NA	8.25% 8%

- 27 (2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000	7.75%
\$160,000	NA	8.25% 8%

- 35 (3) For unmarried individuals other than surviving spouses and heads of
 36 households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000	7.75%
\$120,000	NA	8.25% 8%

- 44 (4) For married individuals who do not file a joint return under
 45 G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000	7.75%
\$100,000	NA	8.25% 8%".

52 **SECTION 24.2.(c)** G.S. 105-134.2(a), as amended by subsections (a) and
 53 (b) of this section, reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000 NA	7.75%
\$200,000	NA	8%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000 NA	7.75%
\$160,000	NA	8%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000 NA	7.75%
\$120,000	NA	8%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000 NA	7.75%
\$100,000	NA	8%

SECTION 24.2.(d) Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2007. Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2008. The remainder of this section is effective when it becomes law.

CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE FOR ONE YEAR AND HOLD HIGHWAY FUNDS HARMLESS

SECTION 24.3.(a) Notwithstanding G.S. 105-449.80(a), for the period July 1, 2006, through June 30, 2007, the variable wholesale component of the motor fuel excise tax rate may not exceed twelve and four-tenths cents (12.4¢) a gallon.

SMALL BUSINESS HEALTH INSURANCE TAX CREDIT

SECTION 24.4.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16E. Credit for small business employee health benefits.

(a) Credit. – A small business that provides health benefits for all of its eligible employees during the taxable year is allowed a credit to offset its costs in providing health benefits for its eligible employees. For the purposes of this subsection, a taxpayer

1 provides health benefits if it pays at least fifty percent (50%) of the premiums for health
2 care coverage that equals or exceeds the minimum provisions of the basic health care
3 plan of coverage recommended by the Small Employer Carrier Committee pursuant to
4 G.S. 58-50-125 or if its employees have qualifying existing coverage.

5 The credit is equal to a dollar amount per eligible employee whose total wages or
6 salary received from the business does not exceed forty thousand dollars (\$40,000) on
7 an annual basis. The dollar amount is two hundred fifty dollars (\$250.00), not to exceed
8 the taxpayer's costs of providing health benefits for the employee during the taxable
9 year.

10 (b) Allocation. – If the taxpayer is an individual who is a nonresident or a
11 part-year resident, the taxpayer must reduce the amount of the credit by multiplying it
12 by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer
13 is not an individual and is required to apportion its multistate business income to this
14 State, the taxpayer must reduce the amount of the credit by multiplying it by the
15 apportionment fraction used to apportion its business income to this State.

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

17 (1) Eligible employee. – Defined in G.S. 58-50-110.

18 (2) Qualifying existing coverage. – Defined in G.S. 58-50-130(a)(4a).

19 (3) Small business. – A taxpayer that employs no more than 25 eligible
20 employees throughout the taxable year.

21 (d) Sunset. – This section expires for taxable years beginning on or after January
22 1, 2009."

23 **SECTION 24.4.(b)** This section is effective for taxable years beginning on
24 or after January 1, 2007.

25 **EXPAND DEFINITION OF DEVELOPMENT ZONE**

26 **SECTION 24.5.(a)** G.S. 105-129.3A(a) reads as rewritten:

27 "(a) Development Zone Defined. – A development zone is an area comprised of
28 either an economic development and training district as defined by G.S. 153A-317.12 or
29 one or more contiguous census tracts, census block groups, or both in the most recent
30 federal decennial census that meets all of the following conditions:

31 (1) Every census tract and census block group in the zone is located in
32 whole or in part within the primary corporate limits of a city with a
33 population of more than 5,000 according to the most recent annual
34 population estimates certified by the State Budget Officer.

35 (2) It has a population of 1,000 or more according to the most recent
36 annual population estimates certified by the State Budget Officer.

37 (3) More than twenty percent (20%) of its population is below the poverty
38 level according to the most recent federal decennial census.

39 (4) Every census tract and census block group in the zone meets at least
40 one of the following conditions:

41 a. More than ten percent (10%) of its population is below the
42 poverty level according to the most recent federal decennial
43 census.

44 b. It is immediately adjacent to another census tract or census
45 block group that is in the same zone and has more than twenty
46 percent (20%) of its population below the poverty level
47 according to the most recent federal decennial census.

48 (5) None of the census tracts or census block groups in the zone is located
49 in another development zone designated by the Secretary of
50 Commerce."
51

52 **SECTION 24.5.(b)** This section is effective for taxable years beginning on
53 or after January 1, 2004.
54

EXTEND SUNSETS ON SALES AND USE TAX REFUNDS FOR AVIATION FUEL

SECTION 24.6.(a) G.S. 105-164.14(l) reads as rewritten:

"(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed for purchases made on or after January 1, 2009."

SECTION 24.6.(b) G.S. 105-164.14(a1) reads as rewritten:

"(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after January 1, 2009."

SECTION 24.6.(c) Section 62 of S.L. 2005-435 reads as rewritten:

"SECTION 62. This part becomes effective January 1, 2005, and applies to purchases made on or after that date. ~~This part is repealed effective for purchases made on or after January 1, 2007.~~ This part does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this part before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

SECTION 24.6.(d) This section is effective when it becomes law.

ETHYL ALCOHOL TAX CREDIT

SECTION 24.7.(a) G.S. 105-129.16D reads as rewritten:

"§ 105-129.16D. Credit for constructing renewable fuel facilities.

(a) Dispensing Credit. – A taxpayer that constructs and installs and places in service in this State a qualified commercial facility for dispensing renewable fuel is allowed a credit equal to fifteen percent (15%) of the cost to the taxpayer of constructing and installing the part of the dispensing facility, including pumps, storage tanks, and related equipment, that is directly and exclusively used for dispensing or storing renewable fuel. A facility is qualified if the equipment used to store or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel.

The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the portion of the facility directly and exclusively used for dispensing or storing renewable fuel is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

1 (b) Production Credit. – A taxpayer that constructs and places in service in this
2 State a commercial facility for processing renewable fuel is allowed a credit equal to
3 twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the
4 facility. The entire credit may not be taken for the taxable year in which the facility is
5 placed in service but must be taken in seven equal annual installments beginning with
6 the taxable year in which the facility is placed in service. If, in one of the years in which
7 the installment of a credit accrues, the facility with respect to which the credit was
8 claimed is disposed of or taken out of service, the credit expires and the taxpayer may
9 not take any remaining installment of the credit. The taxpayer may, however, take the
10 portion of an installment that accrued in a previous year and was carried forward to the
11 extent permitted under G.S. 105-129.17.

12 (b1) Alternative Production Credit. – In lieu of the credit allowed under subsection
13 (b) of this section, a taxpayer that constructs and places in service in this State three or
14 more commercial facilities for processing renewable fuel and that invests a total amount
15 of at least four hundred million dollars (\$400,000,000) in the facilities is allowed a
16 credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and
17 equipping the facilities. In order to claim the credit, the taxpayer must obtain a written
18 determination from the Secretary of Commerce that the taxpayer is expected to invest
19 within a five-year period a total amount of at least four hundred million dollars
20 (\$400,000,000) in three or more facilities. The credit must be taken in seven equal
21 annual installments beginning with the taxable year in which the first facility is placed
22 in service. If, in one of the years in which the installment of credit accrues, a facility
23 with respect to which the credit was claimed is disposed of or taken out of service and
24 the investment requirements of this subsection are no longer satisfied, the credit expires
25 and the taxpayer may not take any remaining installment of the credit. The taxpayer
26 may, however, take the portion of an installment that accrued in a previous year and was
27 carried forward to the extent permitted under G.S. 105-129.17. If a credit allowed under
28 this subsection expires, a taxpayer is not eligible for a credit under subsection (b) of this
29 section with respect to the same property. Notwithstanding the provisions of
30 G.S. 105-129.17(a), a taxpayer may claim the credit allowed under this subsection
31 against the income tax imposed under Article 4 of this Chapter only.

32 (c) No Double Credit. – A taxpayer may not claim the credits allowed under
33 subsections (b) and (b1) of this section with respect to the same facility. A taxpayer that
34 claims any other credit allowed under this Chapter with respect to the costs of
35 constructing and installing a facility may not take the credit allowed in this section with
36 respect to the same costs.

37 (d) Sunset. – This section is repealed effective for facilities placed in service on
38 or after January 1, ~~2008, 2011.~~"

39 **SECTION 24.7.(b)** This section is effective for taxable years beginning on
40 or after January 1, 2006.

41 TAX CREDIT FOR BIODIESEL PRODUCER

42 **SECTION 24.8.(a)** Article 3B of Chapter 105 of the General Statutes is
43 amended by adding a new section to read:

44 "**§ 105-129.16F. Credit for biodiesel producers.**

45 (a) Credit. – A biodiesel provider that produces at least 100,000 gallons of
46 biodiesel during the taxable year is allowed a credit equal to the per gallon excise tax
47 the producer paid under Article 36C of this Chapter on the biodiesel. For the purposes
48 of this section, 'biodiesel' is liquid fuel derived in whole from agricultural products,
49 animal fats, or wastes from agricultural products or animal fats. The credit does not
50 apply to tax paid on diesel fuel included in a biodiesel blend. The credit may not exceed
51 five hundred thousand dollars (\$500,000) and is subject to the limitations of
52 G.S. 105-129.17.

53 (b) Sunset. – This section is repealed for taxable years beginning on or after
54 January 1, 2010."
55

1 **SECTION 24.8.(b)** This section is effective for taxable years beginning on
2 or after January 1, 2008.

3
4 **R&D SALES TAX CHANGES**

5 **SECTION 24.9.(a)** G.S. 105-187.51B reads as rewritten:

6 "**§ 105-187.51B. Tax imposed on ~~recycling equipment, certain recyclers and~~**
7 **research and development companies.**

8 (a) Tax. – A privilege tax is imposed on ~~a~~ the following:

9 (1) A major recycling facility that purchases any of the following tangible
10 personal property for use in connection with the facility:

11 ~~(1)~~ a. Cranes, structural steel crane support systems, and foundations
12 related to the cranes and support systems.

13 ~~(2)~~ b. Port and dock facilities.

14 ~~(3)~~ c. Rail equipment.

15 ~~(4)~~ d. Material handling equipment.

16 (2) A research and development company in the physical, engineering,
17 and life sciences that is included in industry 54171 of NAICS and that
18 purchases equipment or an attachment or repair part for equipment that
19 meets all of the following requirements:

20 a. Is capitalized by the company for tax purposes under the Code.

21 b. Is used by the company in the research and development of
22 tangible personal property.

23 c. Would be considered mill machinery under G.S. 105-187.51 if
24 it were purchased by a manufacturing industry or plant and used
25 in the research and development of tangible personal property
26 manufactured by the industry or plant.

27 (b) Rate. – The tax is one percent (1%) of the sales price of the equipment or
28 other tangible personal property. The maximum tax is eighty dollars (\$80.00) per
29 article."

30 **SECTION 24.9.(b)** This section becomes effective January 1, 2007.

31
32 **SALES AND USE TAX REFUND FOR MOTORSPORTS RACING TEAMS**

33 **SECTION 24.10.(a)** G.S. 105-164.3 reads as rewritten:

34 "**§ 105-164.3. Definitions.**

35 The following definitions apply in this Article:

36
37 ~~...~~
38 (30a) Professional motorsports racing team. – A racing team that satisfies all
39 of the following conditions:

40 a. The team is operated for profit.

41 b. A majority of the revenues of the team is derived from
42 sponsorship of the racing team and prize money.

43 c. The team competes in at least sixty-six percent (66%) of the
44 races sponsored in a single season by a motorsports sanctioning
45 body.

46 (30b) Prosthetic device. – A replacement, corrective, or supporting device
47 worn on or in the body that meets one of the conditions of this
48 subdivision. The term includes repair and replacement parts for the
49 device.

50 a. Artificially replaces a missing portion of the body.

51 b. Prevents or corrects a physical deformity or malfunction.

52 c. Supports a weak or deformed portion of the body.

53 ~~...~~
54 **SECTION 24.10.(b)** G.S. 105-164.14 is amended by adding a new
subsection to read:

1 "(m) Professional Motor Racing Vehicles. – A professional motorsports racing
 2 team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this
 3 State on tangible personal property, other than tires or accessories, that comprises any
 4 part of a professional motor racing vehicle. For the purposes of this subsection,
 5 'accessories' includes instrumentation, telemetry, consumables, and paint. A request for
 6 a refund must be in writing and must include any information and documentation the
 7 Secretary requires. A request for a refund is due within six months after the end of the
 8 State's fiscal year. Refunds applied for after the due date are barred."

9 **SECTION 24.10.(c)** This section becomes effective July 1, 2007, and
 10 applies to purchases made on or after that date.

11
 12 **JOINT FILING OPTIONS**

13 **SECTION 24.11.(a)** G.S. 105-152(e) reads as rewritten:

14 "(e) Joint Returns. – A husband and wife shall file a single income tax return
 15 jointly if (i) their whose federal taxable income is determined on a joint federal return
 16 and (ii) both spouses are residents of this State or both spouses have shall file a single
 17 income tax return jointly if each spouse either is a resident of this State or has North
 18 Carolina taxable income. income and may file a single income tax return jointly if one
 19 spouse is not a resident and has no North Carolina taxable income. Except as otherwise
 20 provided in this Part, a wife and husband filing jointly are treated as one taxpayer for
 21 the purpose of determining the tax imposed by this Part. A husband and wife filing
 22 jointly are jointly and severally liable for the tax imposed by this Part reduced by the
 23 sum of all credits allowable including tax payments made by or on behalf of the
 24 husband and wife. However, if a spouse has been relieved of liability for federal tax
 25 attributable to a substantial understatement by the other spouse pursuant to section 6015
 26 of the Code, that spouse is not liable for the corresponding tax imposed by this Part
 27 attributable to the same substantial understatement by the other spouse. A wife and
 28 husband filing jointly have expressly agreed that if the amount of the payments made by
 29 them with respect to the taxes for which they are liable, including withheld and
 30 estimated taxes, exceeds the total of the taxes due, refund of the excess may be made
 31 payable to both spouses jointly or, if either is deceased, to the survivor alone."

32 **SECTION 24.11.(b)** This section is effective for taxable years beginning on
 33 or after January 1, 2006.

34
 35 **PARENTAL SAVINGS TRUST FUND TAX DEDUCTION**

36 **SECTION 24.12.(a)** G.S. 105-134.6(d) is amended by adding two new
 37 subdivisions to read:

38 "(d) Other Adjustments. – The following adjustments to taxable income shall be
 39 made in calculating North Carolina taxable income:

40
 41 (4) A taxpayer whose adjusted gross income (AGI), as calculated under
 42 the Code, is less than the amount listed in this subdivision may deduct
 43 from taxable income the amount, not to exceed seven hundred fifty
 44 dollars (\$750.00), contributed to an account in the Parental Savings
 45 Trust Fund of the State Education Assistance Authority established
 46 pursuant to G.S. 116-209.25. In the case of a married couple filing a
 47 joint return, the maximum dollar amount of the deduction is one
 48 thousand five hundred dollars (\$1,500).

<u>Filing Status</u>	<u>AGI</u>
<u>Married, filing jointly</u>	<u>\$100,000</u>
<u>Head of Household</u>	<u>80,000</u>
<u>Single</u>	<u>60,000</u>
<u>Married, filing separately</u>	<u>50,000</u>

49
 50
 51
 52
 53
 54 (5) The taxpayer shall add to taxable income the amount deducted from
 55 taxable income in a prior taxable year under subdivision (4) of this

1 subsection to the extent this amount was withdrawn from the Parental
2 Savings Trust Fund of the State Education Assistance Authority
3 established pursuant to G.S. 116-209.25 and not used to pay for the
4 qualified higher education expenses of the designated beneficiary,
5 unless the withdrawal was made without penalty under section 529 of
6 the Code due to the death or permanent disability of the designated
7 beneficiary."

8 **SECTION 24.12.(b)** This section is effective for taxable years beginning on
9 or after January 1, 2006, and is repealed for taxable years beginning on or after January
10 1, 2011.

11 **SALES TAX ON RAILROAD CARS**

12 **SECTION 24.13.(a)** G.S. 105-164.4B(b) reads as rewritten:

13 "(b) Periodic Rental Payments. – When a lease or rental agreement requires
14 recurring periodic payments, the payments are sourced as follows:

- 15 (1) For leased or rented property, the first payment is sourced in
16 accordance with the principles set out in subsection (a) of this section
17 and each subsequent payment is sourced to the primary location of the
18 leased or rented property for the period covered by the payment. This
19 subdivision applies to all property except a motor vehicle, an aircraft,
20 ~~and transportation equipment~~, and a utility company
21 railway car.
22 (2) For leased or rented property that is a motor vehicle or an aircraft but
23 is not transportation equipment, all payments are sourced to the
24 primary location of the leased or rented property for the period covered
25 by the payment.
26 (3) For leased or rented property that is transportation equipment, all
27 payments are sourced in accordance with the principles set out in
28 subsection (a) of this section.
29 (4) For a railway car that is leased or rented by a utility company and
30 would be transportation equipment if it were used in interstate
31 commerce, all payments are sourced in accordance with the principles
32 set out in subsection (a) of this section."

33 **SECTION 24.13.(b)** G.S. 105-164.14 is amended by adding a new
34 subsection to read:

35 (a2) Utility Companies. – A utility company is allowed a refund, in accordance
36 with this section, of part of the sales and use taxes paid by it on the purchase in this
37 State of railway cars and locomotives and accessories for a railway car or locomotive
38 the utility company operates. The Secretary shall prescribe the periods of time, whether
39 monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be
40 claimed and shall prescribe the time within which, following these periods, an
41 application for refund may be made.

42 An applicant for refund shall furnish the following information and any proof of the
43 information required by the Secretary:

- 44 (1) A list identifying the railway cars, locomotives, and accessories
45 purchased by the applicant inside or outside this State during the
46 refund period.
47 (2) The purchase price of the items listed in subdivision (1) of this
48 subsection.
49 (3) The sales and use taxes paid in this State on the listed items.
50 (4) The number of miles the applicant's railway cars and locomotives were
51 operated both inside and outside this State during the refund period.
52 (5) Any other information required by the Secretary.

53 For each applicant, the Secretary shall compute the amount to be refunded as
54 follows. First, the Secretary shall determine the ratio of the number of miles the
55

1 applicant operated its railway cars and locomotives in this State during the refund
2 period to the number of miles it operated them both inside and outside this State during
3 the refund period. Second, the Secretary shall determine the applicant's proportional
4 liability for the refund period by multiplying this mileage ratio by the purchase price of
5 the items identified in subdivision (1) of this subsection and then multiplying the
6 resulting product by the tax rate that would have applied to the items if they had all been
7 purchased in this State. Third, the Secretary shall refund to each applicant the excess of
8 the amount of sales and use taxes the applicant paid in this State during the refund
9 period on these items over the applicant's proportional liability for the refund period."

10 **SECTION 24.13.(c)** This section becomes effective July 1, 2006. Subsection
11 (a) of this section applies to lease or rental payments made on or after that date.
12 Subsection (b) of this section applies to purchases made on or after that date.
13

14 **WAGE STANDARD – CERTAIN MANUFACTURERS**

15 **SECTION 24.14.(a)** G.S. 105-129.4(b) reads as rewritten:

16 "(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs in an
17 enterprise tier three, four, or five area if, for the calendar year the jobs are created, the
18 average wage of the jobs for which the credit is claimed meets the wage standard and
19 the average wage of all jobs at the location with respect to which the credit is claimed
20 meets the wage standard. No credit is allowed for jobs not included in the wage
21 calculation. A taxpayer is eligible for the credit for investing in machinery and
22 equipment, the credit for research and development, or the credit for investing in real
23 property for a central office or aircraft facility in a tier three, four, or five area if, for the
24 calendar year the taxpayer engages in the activity that qualifies for the credit, the
25 average wage of all jobs at the location with respect to which the credit is claimed meets
26 the wage standard. In making the wage calculation, the taxpayer must include any
27 positions that were filled for at least 1,600 hours during the calendar year the taxpayer
28 engages in the activity that qualifies for the credit even if those positions are not filled at
29 the time the taxpayer claims the credit. For a taxpayer with a taxable year other than a
30 calendar year, the taxpayer must use the wage standard for the calendar year in which
31 the taxable year begins. No wage standard applies to credits for activities in an
32 enterprise tier one or two area. For the purposes of this subsection, for a fiber, yarn, or
33 thread mill that uses a sequential manufacturing process in which separate parts of the
34 sequential manufacturing process are performed in different facilities within the same
35 county, the term 'location' may mean either the specific establishment or all facilities in
36 the county in which parts of the process are performed.

37 Part-time jobs for which the taxpayer provides health insurance as provided in
38 subsection (b2) of this section are considered to have an average weekly wage at least
39 equal to the applicable percentage times the applicable average weekly wage for the
40 county in which the jobs will be located. There may be a period of up to 100 days
41 between the time at which an employee begins a part-time job and the time at which the
42 taxpayer begins to provide health insurance for that employee.

43 Jobs meet the wage standard if they pay an average weekly wage that is at least
44 equal to one hundred ten percent (110%) of the applicable average weekly wage for the
45 county in which the jobs will be located, as computed by the Secretary of Commerce
46 from data compiled by the Employment Security Commission for the most recent period
47 for which data are available. The applicable average weekly wage is the lowest of the
48 following: (i) the average wage for all insured private employers in the county, (ii) the
49 average wage for all insured private employers in the State, and (iii) the average wage
50 for all insured private employers in the county multiplied by the county income/wage
51 adjustment factor. The county income/wage adjustment factor is the county
52 income/wage ratio divided by the State income/wage ratio. The county income/wage
53 ratio is average per capita income in the county divided by the annualized average wage
54 for all insured private employers in the county. The State income/wage ratio is the
55 average per capita income in the State divided by the annualized average wage for all

1 insured private employers in the State. The Department of Commerce must annually
2 publish the wage standard for each county."

3 **SECTION 24.14.(b)** This section is effective for taxable years beginning on
4 or after January 1, 1996.

5
6 **REAL PROPERTY TAX DONATION CREDIT**

7 **SECTION 24.15.(a)** Section 3 of S.L. 2001-335, as amended by Section 1 of
8 S.L. 2004-134, reads as rewritten:

9 "SECTION 3. This act becomes effective for taxable years beginning on or after
10 January 1, 2002. Section 2 of this act expires for taxable years beginning on or after
11 January 1, ~~2006-2007.~~"

12 **SECTION 24.15.(b)** This section is effective when it becomes law.

13
14 **AGRARIAN GROWTH ZONES – BILL LEE**

15 **SECTION 24.16.(a)** Article 3A of Chapter 105 of the General Statutes is
16 amended by adding a new section to read:

17 **"§ 105-129.3B. Agrarian growth zone designation.**

18 (a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area
19 comprised of one or more contiguous census tracts, census block groups, or both, in the
20 most recent federal decennial census that meets all conditions in this subsection. A
21 county may have no more than one agrarian growth zone.

22 (1) All land within the zone is located in whole within a county that has no
23 municipality with a population in excess of 10,000.

24 (2) Every census tract and census block group that composes part of the
25 zone has more than twenty percent (20%) of its population below the
26 poverty level according to the most recent federal decennial census.

27 (3) The area of the zone less the smallest census tract included in the zone
28 does not exceed five percent (5%) of the total area of the county in
29 which the zone is located.

30 (b) Designation. – Upon request of a local government, the Secretary of
31 Commerce shall make a written determination whether an area is an agrarian growth
32 zone that meets the conditions of subsection (a) of this section. A determination under
33 this section is effective until December 31 of the year following the year in which the
34 determination is made. The Department of Commerce shall publish annually a list of all
35 agrarian growth zones with a description of their boundaries.

36 (c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of
37 this section, a parcel of property that is located partially within an agrarian growth zone
38 is considered entirely within the zone if all of the following conditions are satisfied:

39 (1) At least fifty percent (50%) of the parcel is located within the zone.

40 (2) The parcel was in existence and under common ownership prior to the
41 most recent federal decennial census.

42 (3) The parcel is a portion of land made up of one or more tracts or tax
43 parcels of land that is surrounded by a continuous perimeter boundary.

44 (d) Relationship With Enterprise Tiers. – For the purpose of the wage standard
45 requirement of G.S. 105-129.4, the credit for investing in machinery and equipment
46 allowed in G.S. 105-129.9, and the credit for worker training allowed in
47 G.S. 105-129.11, an agrarian growth zone is considered an enterprise tier one area. For
48 all other purposes, an agrarian growth zone has the same enterprise tier designation as
49 the county in which it is located."

50 **SECTION 24.16.(b)** G.S. 105-129.2 reads as rewritten:

51 **"§ 105-129.2. Definitions.**

52 The following definitions apply in this Article:

53 (1) Agrarian growth zone. – An area designated as an agrarian growth
54 zone pursuant to G.S. 105-129.3B.

(1a) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

SECTION 24.16.(c) G.S. 105-129.6(a1) reads as rewritten:

"(a1) Fee. – When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit under this Article, the taxpayer must pay the Department of Revenue a fee of five hundred dollars (\$500.00) for each credit the taxpayer claims or intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to any credit the taxpayer claims or intends to claim with respect to a location that is in a development zone ~~as defined in G.S. 105-129.3A~~ or agrarian growth zone. If the taxpayer claims or intends to claim a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The fee is due at the time the return is due for the taxable year in which the taxpayer engaged in the activity for which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable year until all outstanding fees have been paid.

The Secretary of Revenue shall retain three-fourths of the proceeds of the fee imposed in this section for the costs of administering and auditing the credits allowed in this Article. The Secretary of Revenue shall credit the remaining proceeds of the fee imposed in this section to the Department of Commerce for the costs of administering this Article. The proceeds of the fee are receipts of the Department to which they are credited."

SECTION 24.16.(d) G.S. 105-129.7(b)(1) reads as rewritten:

"(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone or agrarian growth zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier designation of that place. In addition, for jobs that are located in a development zone, the number of those jobs that are filled by residents of the development zone."

SECTION 24.16.(e) G.S. 105-129.8 reads as rewritten:

"§ 105-129.8. Credit for creating jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a new position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone or agrarian growth zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

(a1) Positions. – A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The number of new positions a taxpayer fills during the taxable year is determined by subtracting the highest number of full-time employees the taxpayer had in this State at any time during the 12-month

1 period preceding the beginning of the taxable year from the number of full-time
2 employees the taxpayer has in this State at the end of the taxable year.

3 (a2) Installments. – The credit may not be taken in the taxable year in which the
4 additional employee is hired. Instead, the credit must be taken in equal installments over
5 the four years following the taxable year in which the additional employee was hired
6 and is conditioned on the taxpayer's continued employment in this State of the number
7 of full-time employees the taxpayer had upon hiring the employee that caused the
8 taxpayer to qualify for the credit.

9 If, in one of the four years in which the installment of a credit accrues, the number of
10 the taxpayer's full-time employees in this State falls below the number of full-time
11 employees the taxpayer had in this State in the year in which the taxpayer qualified for
12 the credit, the credit expires and the taxpayer may not take any remaining installment of
13 the credit. The taxpayer may, however, take the portion of an installment that accrued in
14 a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

15 (a3) Transferred Jobs. – Jobs transferred from one area in the State to another area
16 in the State are not considered new jobs for purposes of this section. If, in one of the
17 four years in which the installment of a credit accrues, the position filled by the
18 employee is moved to an area in a higher- or lower-numbered enterprise tier, or is
19 moved from a development zone or agrarian growth zone to an area that is not a
20 development zone or agrarian growth zone, the remaining installments of the credit
21 must be calculated as if the position had been created initially in the area to which it was
22 moved.

23 (b) Repealed by Session Laws 1989, c. 111, s. 1.

24 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

25 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
26 Department of Commerce to create at least twenty new full-time jobs in a specific area
27 within two years of the date the letter is signed qualifies for the credit in the amount
28 allowed by this section based on the area's enterprise tier and development zone or
29 agrarian growth zone designation for that year even though the employees are not hired
30 that year. In the case of an interstate air courier that has or is constructing a hub in this
31 State and in the case of an eligible major industry, the applicable time period is seven
32 years. The credit shall be available in the taxable year after at least twenty employees
33 have been hired if the hirings are within the applicable commitment period. The
34 conditions outlined in subsection (a) apply to a credit taken under this subsection except
35 that if the area is redesignated to a higher-numbered enterprise tier or loses its
36 development zone or agrarian growth zone designation after the year the letter of
37 commitment was signed, the credit is allowed based on the area's enterprise tier and
38 development zone or agrarian growth zone designation for the year the letter was
39 signed. If the taxpayer does not hire the employees within the applicable period, the
40 taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit
41 under subsection (a) in the year any new employees are hired, the taxpayer may take the
42 credit under that subsection.

43 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3."

44 **SECTION 24.16.(f)** G.S. 105-129.9 reads as rewritten:

45 **"§ 105-129.9. Credit for investing in machinery and equipment.**

46 ...
47 (d) Expiration. – As used in this subsection, the term "disposed of" means
48 disposed of, taken out of service, or moved out of State.

49 If, in one of the seven years in which the installment of a credit accrues, the
50 machinery and equipment with respect to which the credit was claimed are disposed of,
51 the credit expires and the taxpayer may not take any remaining installment of the credit
52 for that machinery and equipment unless the cost of that machinery and equipment is
53 offset in the same taxable year by the taxpayer's new investment in eligible machinery
54 and equipment placed in service in the same enterprise tier, as provided in this
55 subsection. If, during the taxable year the taxpayer disposed of the machinery and

1 equipment for which installments remain, there has been a net reduction in the cost of
2 all the taxpayer's eligible machinery and equipment that are in service in the same
3 enterprise tier as the machinery and equipment that were disposed of, and the amount of
4 this reduction is greater than twenty percent (20%) of the cost of the machinery and
5 equipment that were disposed of, then the taxpayer forfeits the remaining installments
6 of the credit for the machinery and equipment that were disposed of. If the amount of
7 the net reduction is equal to twenty percent (20%) or less of the cost of the machinery
8 and equipment that were disposed of, or if there is no net reduction, then the taxpayer
9 does not forfeit the remaining installments of the expired credit. In determining the
10 amount of any net reduction during the taxable year, the cost of machinery and
11 equipment the taxpayer placed in service during the taxable year and for which the
12 taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost
13 of all the taxpayer's eligible machinery and equipment that are in service. If in a single
14 taxable year machinery and equipment with respect to two or more credits in the same
15 tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery
16 and equipment that are in service in the same tier is compared to the total cost of all the
17 machinery and equipment for which credits expired in order to determine whether the
18 remaining installments of the credits are forfeited.

19 The expiration of a credit does not prevent the taxpayer from taking the portion of an
20 installment that accrued in a previous year and was carried forward to the extent
21 permitted under G.S. 105-129.5.

22 If, in one of the seven years in which the installment of a credit accrues, the
23 machinery and equipment with respect to which the credit was claimed are moved to an
24 area in a higher-numbered enterprise tier, or are moved from a development zone or
25 agrarian growth zone to an area that is not a development zone or agrarian growth zone,
26 the remaining installments of the credit are allowed only to the extent they would have
27 been allowed if the machinery and equipment had been placed in service initially in the
28 area to which they were moved.

29 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
30 Department of Commerce to place specific eligible machinery and equipment in service
31 in an area within two years after the date the letter is signed may, in the year the eligible
32 machinery and equipment are placed in service in that area, calculate the credit for
33 which the taxpayer qualifies based on the area's enterprise tier and development zone or
34 agrarian growth zone designation for the year the letter was signed. In the case of an
35 interstate air courier that has or is constructing a hub in this State and in the case of an
36 eligible major industry, the applicable time period is seven years. All other conditions
37 apply to the credit, but if the area has been redesignated to a higher-numbered enterprise
38 tier or has lost its development zone or agrarian growth zone designation after the year
39 the letter of commitment was signed, the credit is allowed based on the area's enterprise
40 tier and development zone or agrarian growth zone designation for the year the letter
41 was signed. If the taxpayer does not place part or all of the specified eligible machinery
42 and equipment in service within the applicable period, the taxpayer does not qualify for
43 the benefit of this subsection with respect to the machinery and equipment not placed in
44 service within the applicable period. However, if the taxpayer qualifies for a credit in
45 the year the eligible machinery and equipment are placed in service, the taxpayer may
46 take the credit for that year as if no letter of commitment had been signed pursuant to
47 this subsection."

48 **SECTION 24.16.(g)** This section is effective for taxable years beginning on
49 or after January 1, 2006, and applies to business activities occurring on or after that
50 date.

51 **INTERNET DATA CENTER FACILITIES – TAX EXEMPTION**

52 **SECTION 24.17.(a)** G.S. 105-164.3 is amended by adding two new
53 subdivisions to read:

54 "**§ 105-164.3. Definitions.**
55

1 The following definitions apply in this Article:

2
3 (8e) Eligible Internet data center. – A facility that satisfies each of the
4 following conditions:

- 5 a. The facility is used primarily or is to be used primarily by a
6 business engaged in Internet service providers and Web search
7 portals industry 51811, as defined by NAICS.
8 b. The facility is comprised of a structure or series of structures
9 located or to be located on a single parcel of land or on
10 contiguous parcels of land that are commonly owned or owned
11 by affiliation with the operator of that facility.
12 c. The facility is located or to be located in a county that was
13 designated, at the time of application for the written
14 determination required under sub-subdivision d. of this
15 subdivision, either an enterprise tier one, two, or three area
16 pursuant to G.S. 105-129.3, regardless of any subsequent
17 change in county enterprise tier status.
18 d. The Secretary of Commerce has made a written determination
19 that at least two hundred fifty million dollars (\$250,000,000) in
20 private funds has been or will be invested in real property or
21 eligible business property, or a combination of both, at the
22 facility within five years after the commencement of
23 construction of the facility.

24
25 (23a) NAICS. – The North American Industry Classification System adopted
26 by the United States Office of Management and Budget as of
27 December 31, 2002."

28 **SECTION 24.17.(b)** G.S. 105-164.13 is amended by adding a new
29 subdivision to read:

30 "**§ 105-164.13. Retail sales and use tax.**

31 The sale at retail and the use, storage, or consumption in this State of the following
32 tangible personal property and services are specifically exempted from the tax imposed
33 by this Article:

34
35 (55) Sales of electricity for use at an eligible Internet data center and
36 eligible business property to be located and used at an eligible Internet
37 data center. As used in this subdivision, 'eligible business property' is
38 property that is capitalized for tax purposes under the Code and is used
39 either:

- 40 a. For the provision of Internet service or Web search portal
41 services as contemplated by G.S. 105-164.3(8e)a., including
42 equipment cooling systems for managing the performance of
43 the property.
44 b. For the generation, transformation, transmission, distribution, or
45 management of electricity, including exterior substations and
46 other business personal property used for these purposes.
47 c. To provide related computer engineering or computer science
48 research.

49 If the level of investment required by G.S. 105-164.3(8e)d. is not
50 timely made, then the exemption provided under this subdivision is
51 forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is
52 timely made but any specific eligible business property is not located
53 and used at an eligible Internet data center, then the exemption
54 provided for the eligible business property under this subdivision is
55 forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is

1 timely made but any portion of the electricity is not used at an eligible
2 Internet data center, then the exemption provided for the electricity
3 under this subdivision is forfeited. A taxpayer that forfeits an
4 exemption under this subdivision is liable for all past taxes avoided as
5 a result of the forfeited exemption, computed from the date the taxes
6 would have been due if the exemption had not been allowed, plus
7 interest at the rate established under G.S. 105-241.1(i). If the forfeiture
8 is triggered due to the lack of a timely investment required by
9 G.S. 105-164.3(8e)d., then interest is computed from the date the taxes
10 would have been due if the exemption had not been allowed. For all
11 other forfeitures, interest is computed from the time as of which the
12 eligible business property or electricity was put to a disqualifying use.
13 The past taxes and interest are due 30 days after the date the exemption
14 is forfeited. A taxpayer that fails to pay the past taxes and interest by
15 the due date is subject to the provisions of G.S. 105-236."

16 **SECTION 24.17.(c)** This section becomes effective October 1, 2006, and
17 applies to sales made on or after that date.

18 **OYSTER SHELL TAX CREDIT**

19 **SECTION 24.18.(a)** Part 1 of Article 4 of Chapter 105 of the General
20 Statutes is amended by adding a new section to read:

21 **"§ 105-130.48. Credit for recycling oyster shells.**

22 (a) Credit. – A taxpayer who donates oyster shells to the Division of Marine
23 Fisheries of the Department of Environment and Natural Resources is eligible for a
24 credit against the tax imposed by this Part. The amount of the credit is equal to one
25 dollar (\$1.00) per bushel of oyster shells donated.

26 (b) Limitation. – The credit allowed under this section may not exceed the
27 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits
28 allowable, except tax payment made by or on behalf of the taxpayer.

29 (c) Carryforward. – Any unused portion of a credit allowed in this section may
30 be carried forward for the succeeding five years. A successor in business may take the
31 carryforwards of a predecessor corporation as if they were carryforwards of a credit
32 allowed to the successor in business.

33 (d) No Double Benefit. – No deduction is allowed under G.S. 105-130.5(b)(5) or
34 G.S. 105-130.9 for the donation of oyster shells for which a credit is claimed under this
35 section.

36 (e) Documentation of Credit. – To support the credit allowed by this section, the
37 taxpayer must file with its income tax return, for the taxable year in which the credit is
38 claimed, a certification by the Department of Environment and Natural Resources
39 stating the number of bushels of oyster shells donated by the taxpayer.

40 (f) Sunset. – This section is repealed effective for taxable years beginning on or
41 after January 1, 2011."

42 **SECTION 24.18.(b)** G.S. 105-130.9(4) reads as rewritten:

43 "(4) The amount of a contribution for which the taxpayer claimed a tax
44 credit pursuant to G.S. 105-130.34 or G.S. 105-130.48 shall not be
45 eligible for a deduction under this section. The amount of the credit
46 claimed with respect to the contribution is not, however, required to be
47 added to income under G.S. 105-130.5(a)(10)."

48 **SECTION 24.18.(c)** Part 2 of Article 4 of Chapter 105 of the General
49 Statutes is amended by adding a new section to read:

50 **"§ 105-151.30. Credit for recycling oyster shells.**

51 (a) Credit. – A taxpayer who donates oyster shells to the Division of Marine
52 Fisheries of the Department of Environment and Natural Resources is eligible for a
53 credit against the tax imposed by this Part. The amount of the credit is equal to one
54 dollar (\$1.00) per bushel of oyster shells donated.
55

1 **(b) Limitation.** – The credit allowed under this section may not exceed the
2 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits
3 allowable, except tax payment made by or on behalf of the taxpayer.

4 **(c) Carryforward.** – Any unused portion of a credit allowed in this section may
5 be carried forward for the succeeding five years.

6 **(d) Documentation of Credit.** – To support the credit allowed by this section, the
7 taxpayer must file with its income tax return, for the taxable year in which the credit is
8 claimed, a certification by the Department of Environment and Natural Resources
9 stating the number of bushels of oyster shells donated by the taxpayer.

10 **(e) No Double Benefit.** – A taxpayer who claims a credit under this section must
11 add back to taxable income any amount deducted under the Code for the donation of the
12 oyster shells.

13 **(f) Sunset.** – This section is repealed effective for taxable years beginning on or
14 after January 1, 2011."

15 **SECTION 24.18.(d)** G.S. 105-151.26 reads as rewritten:

16 "**§ 105-151.26. Credit for charitable contributions by nonitemizers.**

17 A taxpayer who elects the standard deduction under section 63 of the Code for
18 federal tax purposes is allowed as a credit against the tax imposed by this Part an
19 amount equal to seven percent (7%) of the taxpayer's excess charitable contributions.
20 The taxpayer's excess charitable contributions are the amount by which the taxpayer's
21 charitable contributions for the taxable year that would have been deductible under
22 section 170 of the Code if the taxpayer had not elected the standard deduction exceed
23 two percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

24 No credit shall be allowed under this section for amounts deducted from gross
25 income in calculating taxable income under the Code or for contributions for which a
26 credit was claimed under ~~G.S. 105-151.12 or G.S. 105-151.14.~~ G.S. 105-151.12,
27 105-151.14, or 151.30. A nonresident or part-year resident who claims the credit
28 allowed by this section shall reduce the amount of the credit by multiplying it by the
29 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed
30 under this section may not exceed the amount of tax imposed by this Part for the taxable
31 year reduced by the sum of all credits allowed, except payments of tax made by or on
32 behalf of the taxpayer."

33 **SECTION 24.18.(e)** G.S. 105-134.6(c) is amended by adding a new
34 subdivision to read:

35 "**(5a)** The market price of the oyster shells for which the taxpayer claims a
36 credit for the taxable year under G.S. 105-151.30."

37 **SECTION 24.18.(f)** G.S. 105-160.3(b) reads as rewritten:

38 "(b) The following credits are not allowed to an estate or trust:

39 ...
40 **(8)** G.S. 105-151.30. Credit for recycling oyster shells."

41 **SECTION 24.18.(g)** This section is effective for taxable years beginning on
42 or after January 1, 2006, and expires for taxable years beginning on or after January 1,
43 2011.

44 **REDUCE SALES TAX ON ELECTRICITY SOLD TO MANUFACTURERS**

45 **SECTION 24.19.(a)** G.S. 105-164.4(a)(1f)b. is repealed.

46 **SECTION 24.19.(b)** G.S. 105-164.4(a) is amended by adding a new
47 subdivision to read:

48 "**(1i)** The rate of two and six-tenths percent (2.6%) applies to the sales price
49 of electricity that is measured by a separate meter or another separate
50 device and sold to manufacturing industries and manufacturing plants
51 for use in connection with the operation of the industries and plants."

52 **SECTION 24.19.(c)** This section becomes effective July 1, 2007, and
53 applies to sales made on or after that date.
54
55

PART XXIV-A. OTHER TAX CHANGES**NO SALES TAX REFUND FOR ALCOHOL PURCHASES**

SECTION 24A.1.(a) G.S. 105-164.14 is amended by adding a new subsection to read:

"(d1) Alcoholic Beverages. – The refunds authorized by this section do not apply to purchases of alcoholic beverages, as defined in G.S. 18B-101."

SECTION 24A.1.(b) This section becomes effective July 1, 2006, and applies to purchases made on or after that date.

FRANCHISE TAX LOOPHOLE CLOSING

SECTION 24A.2.(a) G.S. 105-114(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

(1) City. – Defined in G.S. 105-228.90.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company that elects to be taxed as a C Corporation under the Code, but does not otherwise include a limited liability company.

(3) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(4) Income year. – Defined in G.S. 105-130.2(5)."

SECTION 24A.2.(b) G.S. 105-114.1 reads as rewritten:

"§ 105-114.1. Limited liability companies.

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

(1) Affiliated group. – Defined in section 1504 of the Code.

(2) Capital interest. – The right under a limited liability company's governing law to receive a percentage of the company's assets upon dissolution after payments to creditors.

(3) Entity. – A person that is not a human being.

(4) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(5) Noncorporate limited liability company. – A limited liability company that does not elect to be taxed as a C Corporation under the Code.

(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns more than fifty percent (50%) of the capital interests in a noncorporate limited liability company, the corporation or group of corporations must include in its three tax bases pursuant to G.S. 105-122 the same percentage of (i) the noncorporate limited liability company's capital stock, surplus, and undivided profits; (ii) fifty-five percent (55%) of the noncorporate limited liability company's appraised ad valorem tax value of property; and (iii) the noncorporate limited liability company's actual investment in tangible property in this State, as appropriate.

(c) Constructive Ownership. – Ownership of the capital interests in a noncorporate limited liability company is determined by reference to the constructive ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:

1 (1) The term "capital interest" is substituted for "stock" each place it
2 appears.

3 (2) A noncorporate limited liability company and any noncorporate entity
4 other than a partnership, estate, or trust is treated as a partnership.

5 (3) The operating rule of section 318(a)(5) of the Code applies without
6 regard to section 318(a)(5)(C).

7 (d) No Double Inclusion. – If a corporation is required to include a percentage of
8 a noncorporate limited liability company's assets in its tax bases under this Article
9 pursuant to subsection (b) of this section, its investment in the noncorporate limited
10 liability company is not included in its computation of capital stock base under
11 G.S. 105-122(b).

12 (e) Affiliated Group. – If the owner of the capital interests in a noncorporate
13 limited liability company is an affiliated group of corporations, the percentage to be
14 included pursuant to subsection (b) of this section by each group member that is doing
15 business in this State is determined by multiplying the capital interests in the
16 noncorporate limited liability company owned by the affiliated group by a fraction. The
17 numerator of the fraction is the capital interests in the noncorporate limited liability
18 company owned by the group member, and the denominator of the fraction is the capital
19 interests in the noncorporate limited liability company owned by all group members that
20 are doing business in this State.

21 (f) Exemption. – This section does not apply to assets owned by a noncorporate
22 limited liability company if the total book value of the noncorporate limited liability
23 company's assets never exceeded one hundred fifty thousand dollars (\$150,000) during
24 its taxable year.

25 (g) Timing. – Ownership of the capital interests in a noncorporate limited
26 liability company is determined as of the last day of its taxable year. The adjustments
27 pursuant to subsections (b) and (d) of this section must be made to the owner's next
28 following return filed under this Article. If a noncorporate limited liability company and
29 a corporation or an affiliated group of corporations have engaged in a pattern of
30 transferring assets between them with the result that each did not own the capital
31 interests on the last day of its taxable year, the ownership of the capital interests in the
32 noncorporate limited liability company must be determined as of the last day of the
33 corporation or group of corporations' taxable year.

34 (h) Penalty. – A taxpayer who, because of fraud with intent to evade tax,
35 underpays the tax under this Article on assets attributable to it under this section is
36 guilty of a Class H felony in accordance with G.S. 105-236(7)."

37 **SECTION 24A.2.(c)** Article 3 of Chapter 105 is amended by adding a new
38 section to read:

39 **"§ 105-122.1. Credit for additional annual report fees paid by limited liability**
40 **companies subject to franchise tax.**

41 A limited liability company subject to tax under this Article is allowed a credit
42 against the tax imposed by this Article equal to the difference between the annual report
43 fee for corporations under G.S. 55-1-22 and the annual report fee for limited liability
44 companies under G.S. 57C-1-22(a). The credit allowed by this section may not exceed
45 the amount of tax imposed by this Article for the taxable year reduced by the sum of all
46 credits allowed, except payments of tax made by or on behalf of the taxpayer."

47 **SECTION 24A.2.(d)** This section is effective for taxable years beginning on
48 or after January 1, 2007.

50 EXPANSION OF ROYALTY REPORTING OPTION

51 **SECTION 24A.3.(a)** G.S. 105-130.7A reads as rewritten:

52 **"§ 105-130.7A. Royalty income reporting option.**

53 (a) Purpose. – Royalty payments received for the use of ~~trademarks-intangible~~
54 property in this State are income derived from doing business in this State. This section
55 provides taxpayers with an option concerning the method by which these royalties can

1 be reported for taxation when the recipient and the payer are related members. As
2 provided in this section, these royalty payments can be either (i) deducted by the payer
3 and included in the income of the recipient, or (ii) added back to the income of the payer
4 and excluded from the income of the recipient.

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

6 (1) Component member. – Defined in section 1563(b) of the Code.

7 (1a) Intangible property. – Copyrights, patents, and trademarks.

8 (2) North Carolina royalty. – An amount charged that is for, related to, or
9 in connection with the use in this State of a ~~trademark~~ intangible
10 property. The term includes royalty and technical fees, licensing fees,
11 and other similar charges.

12 (3) Own. – To own directly, indirectly, beneficially, or constructively. The
13 attribution rules of section 318 of the Code apply in determining
14 ownership under this section.

15 (4) Related entity. – Any of the following:

16 a. A stockholder who is an individual, or a member of the
17 stockholder's family enumerated in section 318 of the Code, if
18 the stockholder and the members of the stockholder's family
19 own in the aggregate at least eighty percent (80%) of the value
20 of the taxpayer's outstanding stock.

21 b. A stockholder, or a stockholder's partnership, limited liability
22 company, estate, trust, or corporation, if the stockholder and the
23 stockholder's partnerships, limited liability companies, estates,
24 trusts, and corporations own in the aggregate at least fifty
25 percent (50%) of the value of the taxpayer's outstanding stock.

26 c. A corporation, or a party related to the corporation in a manner
27 that would require an attribution of stock from the corporation
28 to the party or from the party to the corporation under the
29 attribution rules of section 318 of the Code, if the taxpayer
30 owns at least eighty percent (80%) of the value of the
31 corporation's outstanding stock.

32 (5) Related member. – A person that, with respect to the taxpayer during
33 any part of the taxable year, is one or more of the following:

34 a. A related entity.

35 b. A component member.

36 c. A person to or from whom there would be attribution of stock
37 ownership in accordance with section 1563(e) of the Code if the
38 phrase "5 percent or more" were replaced by "twenty percent
39 (20%) or more" each place it appears in that section.

40 (6) Royalty payment. – Either of the following:

41 a. Expenses, losses, and costs paid, accrued, or incurred for North
42 Carolina royalties, to the extent the amounts are allowed as
43 deductions or costs in determining taxable income before
44 operating loss deduction and special deductions for the taxable
45 year under the Code.

46 b. Amounts directly or indirectly allowed as deductions under
47 section 163 of the Code, to the extent the amounts are paid,
48 accrued, or incurred for a time price differential charged for the
49 late payment of any expenses, losses, or costs described in this
50 subdivision.

51 (7) Trademark. – A trademark, trade name, service mark, or other similar
52 type of intangible asset.

53 (8) Use. – Use of a ~~trademark~~ intangible property includes direct or
54 indirect maintenance, management, ownership, sale, exchange, or
55 disposition of the ~~trademark~~ intangible property.

1 (c) Election. – For the purpose of computing its State net income, a taxpayer
2 must add royalty payments made to, or in connection with transactions with, a related
3 member during the taxable year. This addition is not required for an amount of royalty
4 payments that meets either of the following conditions:

5 (1) The related member includes the amount as income on a return filed
6 under this Part for the same taxable year that the amount is deducted
7 by the taxpayer, and the related member does not elect to deduct the
8 amount pursuant to G.S. 105-130.5(b)(20).

9 (2) The taxpayer can establish that the related member during the same
10 taxable year directly or indirectly paid, accrued, or incurred the
11 amount to a person who is not a related member.

12 (d) Indirect Transactions. – For the purpose of this section, an indirect transaction
13 or relationship has the same effect as if it were direct."

14 **SECTION 24A.3.(b)** This section is effective for taxable years beginning on
15 or after January 1, 2006.

16 17 **FINANCE LAW STUDIES**

18 **SECTION 24A.4.(a)** The Revenue Laws Study Committee shall study the
19 issues listed in this subsection and shall make a report on these studies, including any
20 recommendations or legislative proposals, to the 2007 General Assembly.

21 (1) Providing income tax deductions for all contributions to section 529
22 plans regardless of the amount of the contribution or the particular plan
23 to which a contribution is made.

24 (2) The effectiveness of the tax credit for certain real property donations.

25 (3) The effectiveness of the tax credits for qualifying expenses of a
26 production company and whether those credits should be modified to
27 more closely conform to the general practice in North Carolina of not
28 requiring an addback of a deduction for the expenses for which a credit
29 is claimed.

30 (4) The effectiveness of tax credits in encouraging the production and use
31 of renewable fuels in the State.

32 **SECTION 24A.4.(b)** The Legislative Research Commission may study the
33 issue of how to improve access to health insurance. The study shall include a review of
34 the recommendations of the House Select Committee on Health Care and the study by
35 an independent actuarial firm engaged by the Senate to conduct a detailed actuarial
36 analysis of Senate Bill 1965: Healthy NC. The study shall include an evaluation of the
37 effectiveness of tax credits in increasing access to health insurance and issues related to
38 the proposal contained in Senate Bill 1965. The Legislative Research Commission shall
39 make a report, including any recommendations or legislative proposals, to the 2007
40 General Assembly on any study conducted pursuant to this subsection.

41 42 **PART XXVI. SET REGULATORY FEES**

43 44 **SET UTILITIES REGULATORY FEE**

45 **SECTION 26.1.(a)** The percentage rate to be used in calculating the public
46 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent
47 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during
48 each quarter that begins on or after July 1, 2006.

49 **SECTION 26.1.(b)** The electric membership corporation regulatory fee
50 imposed under G.S. 62-302(b1) for the 2006-2007 fiscal year is two hundred thousand
51 dollars (\$200,000).

52 53 **SET INSURANCE REGULATORY FEE**

1 **SECTION 26.2.** The percentage rate to be used in calculating the insurance
2 regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2006
3 calendar year.

4
5 **PART XXVIII. MISCELLANEOUS PROVISIONS**

6
7 **EXECUTIVE BUDGET ACT APPLIES**

8 **SECTION 28.1.** The provisions of the Executive Budget Act, Chapter 143,
9 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
10 and are incorporated in this act by reference.

11
12 **COMMITTEE REPORT**

13 **SECTION 28.2.(a)** The Joint Conference Committee Report on the
14 Continuation, Expansion, and Capital Budgets dated June 30, 2006, shall indicate action
15 by the General Assembly on this act and shall therefore be used to construe this act, as
16 provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be
17 considered a part of this act and as such shall be printed as a part of the Session Laws.

18 **SECTION 28.2.(b)** The budget enacted by the General Assembly for the
19 maintenance of the various departments, institutions, and other spending agencies of the
20 State for the 2006-2007 fiscal year is a line-item budget, in accordance with the Budget
21 Code Structure and the State Accounting System Uniform Chart of Accounts set out in
22 the Administrative Policies and Procedures Manual of the Office of the State Controller.
23 This budget includes the appropriations made from all sources including the General
24 Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental
25 receipts.

26 The General Assembly amended the requested adjustments to the budgets
27 submitted to the General Assembly by the Director of the Budget and the Advisory
28 Budget Commission in accordance with the steps that follow, and the line-item detail in
29 the budget enacted by the General Assembly may be derived accordingly:

- 30 (1) The base budget was adjusted in accordance with the base budget cuts
31 and additions that were set out in the Joint Conference Committee
32 Report on the Continuation, Expansion, and Capital Budgets dated
33 June 30, 2006.
- 34 (2) Transfers of funds supporting programs were made in accordance with
35 the Joint Conference Committee Report on the Continuation,
36 Expansion, and Capital Budgets dated June 30, 2006.

37 **SECTION 28.2.(c)** The budget enacted by the General Assembly shall also
38 be interpreted in accordance with the special provisions in this act and in accordance
39 with other appropriate legislation.

40 In the event that there is a conflict between the line-item budget certified by
41 the Director of the Budget and the budget enacted by the General Assembly, the budget
42 enacted by the General Assembly shall prevail.

43
44 **MOST TEXT APPLIES ONLY TO 2006-2007**

45 **SECTION 28.3.** Except for statutory changes or other provisions that clearly
46 indicate an intention to have effects beyond the 2006-2007 fiscal year, the textual
47 provisions of this act apply only to funds appropriated for, and activities occurring
48 during, the 2006-2007 fiscal year.

49
50 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

51 **SECTION 28.4.(a)** Except where expressly repealed or amended by this act,
52 the provisions of S.L. 2005-276 and S.L. 2005-345 remain in effect.

53 **SECTION 28.4.(b)** Notwithstanding any modifications by this act in the
54 amounts appropriated, except where expressly repealed or amended, the limitations and
55 directions for the 2006-2007 fiscal year in S.L. 2005-276 and S.L. 2005-345 that

1 applied to appropriations to particular agencies or for particular purposes apply to the
2 newly enacted appropriations and budget reductions of this act for those same particular
3 purposes.

4
5 **REPEAL CERTAIN PROVISIONS OF THE CONTINUING**
6 **APPROPRIATIONS ACT.**

7 **SECTION 28.4A.** Provisions of S.L. 2006-52 that enact matters identical to
8 those enacted in this act are repealed.

9
10 **EFFECT OF HEADINGS**

11 **SECTION 28.5.** The headings to the parts and sections of this act are a
12 convenience to the reader and are for reference only. The headings do not expand,
13 limit, or define the text of this act, except for effective dates referring to a part.

14
15 **SEVERABILITY CLAUSE**

16 **SECTION 28.6.** If any section or provision of this act is declared
17 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
18 whole or any part other than the part so declared to be unconstitutional or invalid.

19
20 **EFFECTIVE DATE**

21 **SECTION 28.7.** Except as otherwise provided, this act becomes effective
22 July 1, 2006.