GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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

Short Title: Appropriations Act of 2009. (Public)

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

Referred to:

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

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

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

TITLE OF ACT

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

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

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

<table>
<thead>
<tr>
<th>State Agency or Division</th>
<th>FY 2009-2010 (In Millions)</th>
<th>FY 2010-2011 (In Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Administration</td>
<td>50,378,890</td>
<td>52,351,620</td>
</tr>
<tr>
<td>Aging</td>
<td>38,852,637</td>
<td>38,854,436</td>
</tr>
<tr>
<td>Child Development</td>
<td>279,553,887</td>
<td>300,898,883</td>
</tr>
<tr>
<td>Category</td>
<td>Fiscal Year 2008</td>
<td>Fiscal Year 2009</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Education Services</td>
<td>38,367,421</td>
<td>38,419,329</td>
</tr>
<tr>
<td>Public Health</td>
<td>184,376,922</td>
<td>186,253,287</td>
</tr>
<tr>
<td>Social Services</td>
<td>211,862,807</td>
<td>218,188,346</td>
</tr>
<tr>
<td>Medical Assistance</td>
<td>3,534,653,548</td>
<td>3,760,966,766</td>
</tr>
<tr>
<td>Child Health</td>
<td>72,878,252</td>
<td>84,507,003</td>
</tr>
<tr>
<td>Services for the Blind</td>
<td>11,410,072</td>
<td>11,410,073</td>
</tr>
<tr>
<td>Mental Health/DD/SAS</td>
<td>802,183,113</td>
<td>797,170,665</td>
</tr>
<tr>
<td>Health Service Regulation</td>
<td>18,013,493</td>
<td>18,018,831</td>
</tr>
<tr>
<td>Vocational Rehabilitation</td>
<td>42,095,435</td>
<td>42,108,493</td>
</tr>
<tr>
<td><strong>Total Health &amp; Human Services</strong></td>
<td>5,284,626,477</td>
<td>5,549,147,732</td>
</tr>
<tr>
<td>Agriculture &amp; Consumer Services</td>
<td>59,718,202</td>
<td>59,454,549</td>
</tr>
<tr>
<td>Commerce</td>
<td>48,502,026</td>
<td>44,544,085</td>
</tr>
<tr>
<td>Commerce – State Aid to Non-State Entities</td>
<td>70,065,318</td>
<td>58,315,318</td>
</tr>
<tr>
<td>Environment and Natural Resources</td>
<td>199,933,377</td>
<td>202,333,715</td>
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<tr>
<td>Clean Water Management Trust Fund</td>
<td>75,000,000</td>
<td>75,000,000</td>
</tr>
<tr>
<td>Labor</td>
<td>15,852,544</td>
<td>15,880,605</td>
</tr>
<tr>
<td><strong>Total Natural and Economic Resources</strong></td>
<td>469,071,467</td>
<td>455,528,272</td>
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<tr>
<td>Correction</td>
<td>1,316,791,882</td>
<td>1,322,897,116</td>
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<tr>
<td>Crime Control &amp; Public Safety</td>
<td>41,127,049</td>
<td>41,069,041</td>
</tr>
<tr>
<td>Judicial</td>
<td>471,127,933</td>
<td>481,700,136</td>
</tr>
<tr>
<td>Judicial – Indigent Defense</td>
<td>123,716,016</td>
<td>127,185,222</td>
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<tr>
<td>Justice</td>
<td>94,287,671</td>
<td>94,483,101</td>
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<tr>
<td>Juvenile Justice</td>
<td>155,076,168</td>
<td>155,242,861</td>
</tr>
<tr>
<td><strong>Total Justice and Public Safety</strong></td>
<td>2,202,126,719</td>
<td>2,222,577,477</td>
</tr>
<tr>
<td>Administration</td>
<td>73,702,894</td>
<td>73,489,302</td>
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<tr>
<td>State Auditor</td>
<td>13,224,512</td>
<td>13,240,784</td>
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<tr>
<td>Cultural Resources</td>
<td>72,819,260</td>
<td>74,215,832</td>
</tr>
<tr>
<td>Cultural Resources – Roanoke Island</td>
<td>1,955,050</td>
<td>1,955,050</td>
</tr>
<tr>
<td>General Assembly</td>
<td>57,661,786</td>
<td>59,371,264</td>
</tr>
<tr>
<td>Governor's Office</td>
<td>6,113,531</td>
<td>6,119,712</td>
</tr>
<tr>
<td>Insurance</td>
<td>31,644,853</td>
<td>31,707,037</td>
</tr>
<tr>
<td>Insurance – Workers' Compensation Fund</td>
<td>2,000,000</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Lieutenant Governor</td>
<td>937,852</td>
<td>937,852</td>
</tr>
<tr>
<td>Office of Administrative Hearings</td>
<td>3,967,455</td>
<td>3,980,290</td>
</tr>
<tr>
<td>Revenue</td>
<td>84,920,596</td>
<td>85,013,566</td>
</tr>
<tr>
<td>NC Housing Finance</td>
<td>14,608,417</td>
<td>14,608,417</td>
</tr>
<tr>
<td>Secretary of State</td>
<td>11,110,720</td>
<td>11,184,594</td>
</tr>
<tr>
<td>State Board of Elections</td>
<td>6,183,822</td>
<td>6,187,615</td>
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<tr>
<td>State Budget and Management (OSBM)</td>
<td>6,593,846</td>
<td>6,597,294</td>
</tr>
<tr>
<td>Department / Program</td>
<td>Current FY</td>
<td>Previous FY</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
<td>------------</td>
<td>-------------</td>
</tr>
<tr>
<td>OSBM – Special Appropriations</td>
<td>5,273,000</td>
<td>4,273,000</td>
</tr>
<tr>
<td>Office of State Controller</td>
<td>23,611,155</td>
<td>24,243,461</td>
</tr>
<tr>
<td>State Treasurer</td>
<td>10,370,644</td>
<td>10,384,432</td>
</tr>
<tr>
<td>State Treasurer – Retirement/Benefits</td>
<td>10,804,671</td>
<td>10,804,671</td>
</tr>
<tr>
<td><strong>Total General Government</strong></td>
<td><strong>437,504,064</strong></td>
<td><strong>440,314,173</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Education Programs</th>
<th>Current FY</th>
<th>Previous FY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Schools</td>
<td>7,947,740,343</td>
<td>8,109,136,300</td>
</tr>
<tr>
<td>Community Colleges</td>
<td>1,026,792,329</td>
<td>1,068,146,255</td>
</tr>
<tr>
<td>University System</td>
<td>2,659,865,615</td>
<td>2,678,472,564</td>
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<tr>
<td>UNC – Hospital</td>
<td>36,011,882</td>
<td>36,011,882</td>
</tr>
<tr>
<td>UNC – GA Passthrough</td>
<td>162,440,759</td>
<td>214,213,885</td>
</tr>
<tr>
<td><strong>Total Education</strong></td>
<td><strong>11,832,850,928</strong></td>
<td><strong>12,105,980,886</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Debt Service</th>
<th>Current FY</th>
<th>Previous FY</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Debt Service</td>
<td>662,994,697</td>
<td>735,878,445</td>
</tr>
<tr>
<td>Federal Reimbursement</td>
<td>1,616,380</td>
<td>1,616,380</td>
</tr>
<tr>
<td><strong>Total Debt Service</strong></td>
<td><strong>664,611,077</strong></td>
<td><strong>737,494,825</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reserves &amp; Adjustments</th>
<th>Current FY</th>
<th>Previous FY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contingency and Emergency Reserve</td>
<td>5,000,000</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Teacher Salary Schedule Employee's Reserve</td>
<td>64,726,385</td>
<td>56,051,665</td>
</tr>
<tr>
<td>Administrative Support Reduction Statewide Reserve</td>
<td>(3,000,000)</td>
<td>(4,000,000)</td>
</tr>
<tr>
<td>Retirement System</td>
<td>21,000,000</td>
<td>21,000,000</td>
</tr>
<tr>
<td>Freeze Longevity Payments Reserve</td>
<td>(173,000,000)</td>
<td>(177,800,000)</td>
</tr>
<tr>
<td>Economic and Recovery Section Reserve</td>
<td>1,277,682</td>
<td>1,062,872</td>
</tr>
<tr>
<td>Health Plan Reserve</td>
<td>125,000,000</td>
<td>228,000,000</td>
</tr>
<tr>
<td>Job Development Investment Grants</td>
<td>27,400,000</td>
<td>27,400,000</td>
</tr>
<tr>
<td>Budget E-Procurement Receipts</td>
<td>-0-</td>
<td>(10,000,000)</td>
</tr>
<tr>
<td>Health Plan Reserve Reduction-Employee's Opting Out</td>
<td>(25,000,000)</td>
<td>(25,000,000)</td>
</tr>
<tr>
<td>2010 Census Local Promotion Reserve</td>
<td>750,000</td>
<td>-0-</td>
</tr>
<tr>
<td>Performance Management System Reserve</td>
<td>3,250,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Transparency and Accountability Reserve</td>
<td>500,000</td>
<td>500,000</td>
</tr>
<tr>
<td>IT Initiative</td>
<td>14,821,416</td>
<td>14,821,416</td>
</tr>
<tr>
<td><strong>Total Reserves &amp; Adjustments</strong></td>
<td><strong>62,725,483</strong></td>
<td><strong>138,035,953</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Capital</th>
<th>Current FY</th>
<th>Previous FY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Improvements</td>
<td>27,600,000</td>
<td>-0-</td>
</tr>
<tr>
<td><strong>Total Capital</strong></td>
<td><strong>27,600,000</strong></td>
<td><strong>-0-</strong></td>
</tr>
</tbody>
</table>

## General Assembly of North Carolina Session 2009

**Total General Fund Budget**

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total General Fund Budget</td>
<td><strong>$20,981,116,215</strong></td>
<td><strong>$21,649,079,318</strong></td>
</tr>
</tbody>
</table>

### GENERAL FUND AVAILABILITY STATEMENT

**SECTION 2.2.** The General Fund availability used in developing the 2009-2011 budget is shown below:

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 2009-2010 (In Millions)</th>
<th>FY 2010-2011 (In Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Availability</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unappropriated Balance from Prior Fiscal Year</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Credit Balance FY 2008-2009 (Reversions &amp; Overcollections)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Credit to Savings Reserve Account</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Credit to Repairs and Renovations Reserve Account</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Beginning Unreserved Credit Balance</strong></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual Income Tax</td>
<td>10,385,100,000</td>
<td>10,962,100,000</td>
</tr>
<tr>
<td>Corporate Income Tax</td>
<td>772,000,000</td>
<td>823,700,000</td>
</tr>
<tr>
<td>Sales and Use</td>
<td>5,038,400,000</td>
<td>5,400,300,000</td>
</tr>
<tr>
<td>Other Tax</td>
<td>1,835,000,000</td>
<td>1,886,700,000</td>
</tr>
<tr>
<td><strong>Total Tax</strong></td>
<td>18,030,500,000</td>
<td>19,072,800,000</td>
</tr>
<tr>
<td>Nontax/Transfers</td>
<td>831,000,000</td>
<td>831,300,000</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>18,861,500,000</strong></td>
<td><strong>19,904,100,000</strong></td>
</tr>
<tr>
<td><strong>Revenue Changes</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tobacco ($1.00 cigarette, $1.35 total; 18% other)</td>
<td>342,900,000</td>
<td>457,100,000</td>
</tr>
<tr>
<td>Alcohol (5% tax surcharge)</td>
<td>157,500,000</td>
<td>210,000,000</td>
</tr>
<tr>
<td>Improved Enforcement</td>
<td>50,000,000</td>
<td>75,000,000</td>
</tr>
<tr>
<td>Adjust Fees</td>
<td>27,439,810</td>
<td>30,553,080</td>
</tr>
<tr>
<td>Disproportionate Share Allocation</td>
<td>24,994,954</td>
<td>-</td>
</tr>
<tr>
<td>Small Business Tax Relief</td>
<td>(12,000,000)</td>
<td>(24,000,000)</td>
</tr>
<tr>
<td>Caregiver's Tax Credit</td>
<td>-</td>
<td>(800,000)</td>
</tr>
<tr>
<td>Founder's Credit</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>WaterSense Holiday</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Miscellaneous IRC Conformities</td>
<td>(10,400,000)</td>
<td>(20,100,000)</td>
</tr>
<tr>
<td><strong>Subtotal Revenue Changes</strong></td>
<td><strong>580,434,764</strong></td>
<td><strong>706,753,080</strong></td>
</tr>
<tr>
<td><strong>Federal Recovery Funds</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FMAP Assistance</td>
<td>1,003,677,475</td>
<td>500,711,010</td>
</tr>
<tr>
<td>Fiscal Stabilization-Education</td>
<td>580,966,000</td>
<td>580,966,000</td>
</tr>
<tr>
<td>Fiscal Stabilization-General Purpose</td>
<td>129,261,500</td>
<td>129,261,500</td>
</tr>
<tr>
<td><strong>Subtotal Federal Recovery Funds</strong></td>
<td><strong>1,713,904,975</strong></td>
<td><strong>1,210,938,510</strong></td>
</tr>
</tbody>
</table>
General Assembly of North Carolina  
Session 2009

Total Availability  

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Availability</td>
<td>21,155,839,739</td>
<td>21,821,791,590</td>
</tr>
</tbody>
</table>

Less: Total General Fund Appropriations  

<table>
<thead>
<tr>
<th></th>
<th>20,981,116,215</th>
<th>21,649,079,318</th>
</tr>
</thead>
</table>

Transfer Funds to Fiscal Responsibility Reserve  

|                              | 174,723,525 | - |

Unappropriated Balance Remaining  

|                              | - | 172,712,272 |

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS/HIGHWAY FUND

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

Current Operations – Highway Fund

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOT – General Administration</td>
<td>$ 80,810,522</td>
<td>$ 81,897,273</td>
</tr>
<tr>
<td>Highway Division Administration</td>
<td>32,938,983</td>
<td>32,993,177</td>
</tr>
<tr>
<td>State Match for Federal Aid-Planning and Research</td>
<td>4,055,402</td>
<td>4,055,402</td>
</tr>
</tbody>
</table>

Construction Program:

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Secondary System</td>
<td>87,071,264</td>
<td>86,200,551</td>
</tr>
<tr>
<td>Division Small Urban Construction</td>
<td>19,530,000</td>
<td>19,530,000</td>
</tr>
<tr>
<td>Discretionary Funds</td>
<td>13,950,000</td>
<td>13,950,000</td>
</tr>
<tr>
<td>Spot Safety Improvements</td>
<td>9,100,000</td>
<td>9,100,000</td>
</tr>
<tr>
<td>Access and Public Services Roads</td>
<td>1,860,000</td>
<td>1,860,000</td>
</tr>
</tbody>
</table>

Total Construction Program  

|                              | 131,511,264 | 130,640,551 |

Maintenance Program

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary System</td>
<td>187,750,224</td>
<td>179,888,263</td>
</tr>
<tr>
<td>Secondary System</td>
<td>269,718,619</td>
<td>261,856,658</td>
</tr>
<tr>
<td>System Preservation</td>
<td>71,534,008</td>
<td>63,435,877</td>
</tr>
<tr>
<td>Contract Resurfacing</td>
<td>250,826,777</td>
<td>242,964,816</td>
</tr>
<tr>
<td>General Maintenance Reserve</td>
<td>39,518,978</td>
<td>39,518,978</td>
</tr>
</tbody>
</table>

Total Maintenance Program  

|                              | 819,348,606 | 787,664,592 |

Ferry Operations  

|                              | 30,206,209 | 30,110,209 |

State Aid to Municipalities  

|                              | 87,071,264 | 86,200,551 |

State Aid to Railroads  

|                              | 17,101,153 | 17,101,153 |

State Aid for Public Transportation  

|                              | 71,595,962 | 71,631,962 |

Airports  

|                              | 17,349,592 | 17,291,543 |

OSHA  

|                              | 355,389    | 355,389    |

Governor's Highway Safety Program  

|                              | 351,779    | 352,325    |

Division of Motor Vehicles  

|                              | 101,732,813 | 101,747,629 |

Total Department of Transportation  

|                              | $ 1,394,428,938 | $ 1,362,041,756 |

Appropriations to Other State Agencies:

<p>|                              | 4,972,215 | 4,965,929 |</p>
<table>
<thead>
<tr>
<th>Description</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>6,238,753</td>
<td>6,244,609</td>
</tr>
<tr>
<td>State Treasurer</td>
<td>17,557,170</td>
<td>17,504,498</td>
</tr>
<tr>
<td>Office of State Controller-BEST Shared Services</td>
<td>444,037</td>
<td>444,037</td>
</tr>
<tr>
<td>Public Instruction – Civil Penalties</td>
<td>22,000,000</td>
<td>22,000,000</td>
</tr>
<tr>
<td>Public Instruction – Driver Education</td>
<td>33,959,859</td>
<td>33,321,964</td>
</tr>
<tr>
<td>CCPS – Highway Patrol</td>
<td>198,351,279</td>
<td>201,164,792</td>
</tr>
<tr>
<td>DENR – LUST Trust Fund</td>
<td>2,500,123</td>
<td>2,550,553</td>
</tr>
<tr>
<td>DHHS – Chemical Test</td>
<td>660,039</td>
<td>660,039</td>
</tr>
<tr>
<td><strong>Total – Other State Agencies</strong></td>
<td><strong>286,683,475</strong></td>
<td><strong>288,856,421</strong></td>
</tr>
<tr>
<td>Reserves and Transfers:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority Contractor Development</td>
<td>150,000</td>
<td>150,000</td>
</tr>
<tr>
<td>State Fire Protection Grant</td>
<td>150,000</td>
<td>150,000</td>
</tr>
<tr>
<td>Stormwater Discharge Permit</td>
<td>500,000</td>
<td>500,000</td>
</tr>
<tr>
<td>Reserve for Visitor's Centers</td>
<td>400,000</td>
<td>400,000</td>
</tr>
<tr>
<td>Global TransPark</td>
<td>1,600,000</td>
<td>1,600,000</td>
</tr>
<tr>
<td>Reserve for Health Insurance Adjustment</td>
<td>3,920,922</td>
<td>9,320,922</td>
</tr>
<tr>
<td>Employer's Contribution to Retirement</td>
<td>1,000,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Reserve for Longevity Payments</td>
<td>(2,833,335)</td>
<td>(3,059,099)</td>
</tr>
<tr>
<td>Reserve for Administrative Reduction</td>
<td>(2,500,000)</td>
<td>(2,500,000)</td>
</tr>
<tr>
<td><strong>Total Reserves and Transfers</strong></td>
<td><strong>2,387,587</strong></td>
<td><strong>7,561,823</strong></td>
</tr>
<tr>
<td><strong>Total Highway Fund Appropriation</strong></td>
<td><strong>$1,683,500,000</strong></td>
<td><strong>$1,658,460,000</strong></td>
</tr>
</tbody>
</table>

**HIGHWAY FUND AVAILABILITY STATEMENT**

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

<table>
<thead>
<tr>
<th>Highway Fund Availability Statement</th>
<th>2009-2010</th>
<th>2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Credit Balance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Revenue</td>
<td>1,683,500,000</td>
<td>1,658,460,000</td>
</tr>
<tr>
<td>Estimated Reversions</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Highway Fund Availability</strong></td>
<td><strong>$ 1,683,500,000</strong></td>
<td><strong>$ 1,658,460,000</strong></td>
</tr>
</tbody>
</table>

**PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

**HIGHWAY TRUST FUND APPROPRIATIONS**

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

<table>
<thead>
<tr>
<th>Highway Trust Fund</th>
<th>2009-2010</th>
<th>2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transportation:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Allowance for Administration</td>
<td>$41,092,320</td>
<td>$42,373,920</td>
</tr>
<tr>
<td>Construction Allocation:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intrastate System</td>
<td>352,674,316</td>
<td>369,455,555</td>
</tr>
<tr>
<td>Urban Loop System</td>
<td>110,759,502</td>
<td>118,440,179</td>
</tr>
<tr>
<td>Secondary Roads</td>
<td>57,777,091</td>
<td>60,531,355</td>
</tr>
</tbody>
</table>
General Assembly of North Carolina

<table>
<thead>
<tr>
<th></th>
<th>2009-2010</th>
<th>2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Aid to Municipalities</td>
<td>39,893,942</td>
<td>41,549,515</td>
</tr>
<tr>
<td>Bonds:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bond Redemption</td>
<td>54,065,000</td>
<td>54,030,000</td>
</tr>
<tr>
<td>Bond Interest</td>
<td>28,666,000</td>
<td>25,962,750</td>
</tr>
<tr>
<td>NC Turnpike Authority</td>
<td>64,000,000</td>
<td>99,000,000</td>
</tr>
<tr>
<td>Transfer to the General Fund</td>
<td>108,561,829</td>
<td>72,846,726</td>
</tr>
<tr>
<td><strong>Total Highway Trust Fund Appropriations</strong></td>
<td><strong>$857,490,000</strong></td>
<td><strong>$884,190,000</strong></td>
</tr>
</tbody>
</table>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

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

<table>
<thead>
<tr>
<th></th>
<th>2009-2010</th>
<th>2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Credit Balance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Revenue</td>
<td>857,490,000</td>
<td>884,190,000</td>
</tr>
<tr>
<td>Estimated Reversions</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Highway Trust Fund Availability</strong></td>
<td><strong>$857,490,000</strong></td>
<td><strong>$884,190,000</strong></td>
</tr>
</tbody>
</table>

**PART V. OTHER AVAILABILITY AND APPROPRIATIONS**

**CIVIL FORFEITURE FUNDS**

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

<table>
<thead>
<tr>
<th></th>
<th>FY 2009-2010</th>
<th>FY 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>School Technology Fund</td>
<td>36,183,251</td>
<td>18,000,000</td>
</tr>
<tr>
<td>State Public School Fund</td>
<td>120,362,790</td>
<td>120,362,790</td>
</tr>
<tr>
<td>Total Appropriation</td>
<td>156,546,041</td>
<td>138,362,790</td>
</tr>
</tbody>
</table>

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

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

**EDUCATION LOTTERY**

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

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

APPROPRIATION OF CASH BALANCES AND RECEIPTS

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

(1) For all budget codes listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly.

(2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2009-2011 fiscal biennium up to the level of actual expenditures for the 2008-2009 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2008-2009 fiscal year.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2009-2010 fiscal year and the 2010-2011 fiscal year and shall be used only to pay debt service requirements.

(4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

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

BULK IT PURCHASING FOR UNIVERSITIES

SECTION 6.2. General Administration of The University of North Carolina with assistance from the Office of Information Technology Services and the Office of State Budget and Management shall consolidate information technology infrastructure purchasing which includes, but is not limited to, personal computer and printer purchases for all 16 State universities, the North Carolina School of Science and Mathematics, and General Administration by creating a bulk purchasing process that will realize savings through efficiencies. General Administration may choose to utilize the Office of Information...
Technology Services' existing bulk contracts. Information technology infrastructure expenditure shall not be authorized without complying with this section.

CONSOLIDATING STATEWIDE NETWORKS

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

REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS

SECTION 6.3A. G.S. 143-169.1 is repealed.

INSURANCE AND FIDELITY BONDS

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

EXPENDITURES OF FUNDS IN RESERVES LIMITED

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

BUDGET CODE CONSOLIDATIONS

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

BEACON ACCOUNTABILITY

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

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

(1) System risk;
(2) Data integrity;
(3) Customer service;
(4) Service time;
(5) FTE and budget as compared to employees served;
(6) Reporting; and
(7) Cost.

REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS

SECTION 6.8. G.S. 143-169.1 is repealed.
OFFICE OF INFORMATION TECHNOLOGY SERVICES BUDGET REVIEW

SECTION 6.9. G.S. 147-33.88(a) reads as rewritten:
"(a) The Office shall develop an annual budget for review and approval by the Office of State Budget and Management prior to April 1 of each year, in accordance with G.S. 143C-3-3."

BUDGET REALIGNMENT

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

TRUTH-IN-BUDGETING REFORM

SECTION 6.11. G.S. 143C-6-4 reads as rewritten:
"§ 143C-6-4. Budget Adjustments Authorized.
(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable events. Under limited circumstances set forth in this section, the Director may adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts. Under no circumstances, however, shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

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

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

(2) A purpose or program if the overexpenditure of the purpose or program is:
   a. Required by a court or Industrial Commission order;
   b. Authorized under G.S. 166A-5(1)a.9. of the Emergency Management Act; or
   c. Required to call out the national guard.

(3) A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, but only in accord with the following restrictions: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted, (ii) the scope of the purpose or program is not increased, (iii) the overexpenditure is authorized on a nonrecurring basis, and (iv) under no circumstances shall the total requirements for a State department exceed the department's certified budget for the fiscal year by more than three percent (3%) or ten percent (10%) without prior consultation with the Joint Legislative Commission on Governmental Operations."
FISCAL RESPONSIBILITY RESERVE

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

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

PART VII. PUBLIC SCHOOLS

CHILDREN WITH DISABILITIES

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

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

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

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

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

ABCS OF PUBLIC EDUCATION

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

NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS
SECTION 7.4.(a) The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction.

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

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

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

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

1. Available American Recovery and Reinvestment Act funds;
2. Up to six million dollars ($6,000,000) from the School Technology appropriation.

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

LEARN AND EARN ONLINE

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

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

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

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

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

SECTION 7.5.(f) Both The University of North Carolina and the North Carolina Community College System shall provide oversight and coordination, including coordination...
with the Department of Public Instruction and with the North Carolina Virtual Public School (NCVPS) to avoid course duplication.

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

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

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

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

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

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

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

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

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

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:
   a. Anticipated county property tax revenue availability,
   b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
   c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and
d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
   a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
   b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
   c. Add to the resulting amount the:
      1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
      2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
      3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:
   a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
   b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
   c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
   d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

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

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

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

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

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

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

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

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

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

SECTION 7.6.(f) Formula for Distribution of Supplemental Funding Pursuant to
This Section Only. – The formula in this section is solely a basis for distribution of
supplemental funding for low-wealth counties and is not intended to reflect any measure of the
adequacy of the educational program or funding for public schools. The formula is also not
intended to reflect any commitment by the General Assembly to appropriate any additional
supplemental funds for low-wealth counties.
SECTION 7.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only. This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws. If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

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

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

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

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

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

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

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least seven hundred forty thousand seventy-four dollars ($740,074), excluding textbooks for the 2009-2010 fiscal year and a base of seven hundred forty thousand seventy-four dollars ($740,074) for the 2010-2011 fiscal year.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12. If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

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

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section. The State Board of Education shall adopt rules to implement this section.

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

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

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.
"County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

"Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

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

"State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

"Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

"Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

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

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

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

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

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

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

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

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

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

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

**STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

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

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency. A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.
SECTION 7.9.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year. Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

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

SCHOOL CONNECTIVITY INITIATIVE

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

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

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

LITIGATION RESERVE FUNDS

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

REPLACEMENT SCHOOL BUSES FUNDS

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

1. The local board of education shall use the funds only to make the first, second, third, or fourth year's payment on a financing contract entered into pursuant to G.S. 115C-528.

2. The term of a financing contract entered into under this section shall not exceed four years.

3. The local board of education shall purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

4. The Department of Administration, Division of Purchase and Contract, in cooperation with the State Board of Education, shall solicit bids for the direct purchase of school buses and activity buses and shall establish a statewide term contract for use by the State Board of Education. Local boards of education and other agencies shall be eligible to purchase from the statewide term contract. The State Board of Education shall also solicit bids for the financing of school buses.

5. A bus financed pursuant to this section shall meet all federal motor vehicle safety regulations for school buses.

6. Any other condition the State Board of Education considers appropriate.
SECTION 7.13.(b) Any term contract for the purchase or lease-purchase of school
buses or school activity buses shall not require vendor payment of the electronic procurement
transaction fee of the North Carolina E-Procurement Service.

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

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

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

The allotments reduced pursuant to this subsection shall include only those
allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth

CHARTER SCHOOL EVALUATION

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

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

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

MENTOR TEACHER FUNDS

SECTION 7.16.(a) The State Board of Education shall allot funds for mentoring
services to local school administrative units based on the highest number of employees in the
preceding three school years who (i) are paid with State, federal, or local funds and (ii) are
either teachers paid on the first or second steps of the teacher salary schedule or instructional
support personnel paid on the first step of the instructional support personnel salary schedule.
Local school administrative units shall use these funds to provide mentoring support to eligible employees in accordance with a plan approved by the State Board of Education. The plan shall include information on how all mentors in the local school administrative unit will be adequately trained to provide mentoring support.

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

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

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

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

**LEARN AND EARN HIGH SCHOOLS**

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

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

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

**SECTION 7.17.(d)** The State Board of Education, in consultation with the State Board of Community Colleges and The University of North Carolina Board of Governors, shall conduct an annual evaluation of this program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; (ii) recommended statutory and policy changes; and (iii) recommendations for
improvement of the program. The State Board of Education shall report the results of this
evaluation to the Office of State Budget and Management, the Joint Legislative Education
Oversight Committee, and the Fiscal Research Division by January 15 of each fiscal year.

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

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

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

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

MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS

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

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served in
formal early education programs, such as child care, public or private
preschools, Head Start, Early Head Start, early intervention programs, or
other such programs, who demonstrate educational needs, and who are
eligible to enter kindergarten the next school year, as well as children who
are underserved.

(3) A curriculum or several curricula that are research-based and/or built on
sound instructional theory. These curricula shall: (i) focus primarily on oral
language and emergent literacy; (ii) engage children through key
experiences and provide background knowledge requisite for formal learning
and successful reading in the early elementary years; (iii) involve active
learning; (iv) promote measurable kindergarten language-readiness skills
that focus on emergent literacy and mathematical skills; and (v) develop
skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten
program.

(5) Evaluation of child progress through a statewide evaluation, as well as
ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems,
private child care providers, and other entities willing to establish and
provide prekindergarten programs to serve at-risk children.
(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services and the Department of Public Instruction. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than More at Four.

(11) A system of accountability to include a yearly review. The Department shall contract with an independent research organization to produce an annual report to include longitudinal review of the program and academic, behavioral, and other child-specific outcomes. The review shall include a quasi-experimental research design of a representative sample of children who complete the More at Four program every year and shall report on their sustained progress until the end of grade 9. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program and their sustained progress shall also be reviewed until the end of grade 9. The review shall be presented to the Joint Legislative Education Oversight Committee by January 31 of every year.

(12) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services and the Department of Public Instruction shall consider the reallocation of existing funds from State and local programs that provide prekindergarten-related care and services.

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

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

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

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

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

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

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

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

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

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

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

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

DROPOUT PREVENTION GRANTS

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

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

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

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

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

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

(2) These grants shall be provided to innovative programs and initiatives that target students at risk of dropping out of school and that demonstrate the potential to (i) be developed into effective, sustainable, and coordinated dropout prevention and reentry programs in middle schools and high schools and (ii) serve as effective models for other programs.
(3) Priority shall be given to new programs and initiatives or to those that have begun within the last five school years.

(4) Grants shall be distributed geographically throughout the State and throughout the eight educational districts as defined in G.S. 115C-65. No more than three grants shall be awarded in any one county under this section in a single fiscal year.

(5) Grants may be made to local school administrative units, schools, local agencies, or nonprofit organizations.

(6) Grants shall be to programs and initiatives that hold all students to high academic and personal standards.

(7) Grant applications shall state (i) how grant funds will be used, (ii) what, if any, other resources will be used in conjunction with the grant funds, (iii) how the program or initiative will be coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community, and (iv) a process for evaluating the success of the program or initiative.

(8) Programs and initiatives that receive grants under this section shall be based on best practices for helping at-risk students achieve successful academic progress, preventing students from dropping out of school, or for increasing the high school completion rate for those students who already have dropped out of school.

(9) Priority for grants shall be given to proposals that demonstrate input from the local community and coordination with other available programs or resources.

(10) Grantees shall assure their compliance with applicable laws and rules regulating conflicts of interest.

(11) Priority for grants shall be given to programs that would serve students in local schools that have a four-year cohort graduation rate of less than sixty-five percent (65%) and that are from counties that did not receive funding under S.L. 2007-323. The Committee shall establish a grant rating cutoff score at such a level as to allow for consideration of all viable grants in this priority category. The Committee may require grantees to provide supplemental information in response to any prior reviewer comments.

(12) The demonstrated need for a grant, level of collaboration, ability to increase attendance, persistence, academic success, ability to increase parental involvement, and graduation shall be given more weight than the quality of the written grant.

(13) Grants shall be made no later than November 1, 2009.

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

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

(1) How grant funds were used, including the services provided for teen pregnancy prevention and for pregnant and parenting teens;

(2) The success of the program or initiative, as indicated by the evaluation process stated in its grant application;

(3) The extent to which the program or initiative has improved students' attendance, test scores, persistence, and graduation rates;

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

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

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

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

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

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

LEA FLEXIBILITY REDUCTION

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

SECTION 7.20.(b) Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit and charter school of the amount the unit must reduce from the State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.
SECTION 7.20.(c) Each unit shall report to the Department of Public Instruction on the flexibility budget reductions it has identified for the unit within 30 days of the date this act becomes law.

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

RESTRUCTURE THE DEPARTMENT OF PUBLIC INSTRUCTION

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

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

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

SCHOOL TECHNOLOGY PILOT

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

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

BUSINESS EDUCATION TECHNOLOGY ALLIANCE

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

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

CRITICAL FOREIGN LANGUAGE PILOT FUNDS DO NOT REVERT

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

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

ASSESSMENT AND ACCOUNTABILITY

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

SECTION 7.25.(b) Notwithstanding G.S. 115C-174.11, in fiscal year 2009-2010 the State Board of Education shall use funds appropriated in this act to investigate and pilot a developmentally appropriate diagnostic assessment for students in elementary grades in 2009-2010. This assessment will enable teachers to individualize instruction to meet student learning needs and ensure adequate preparation for the next level of coursework as set out by the Standard Course of Study.
SECTION 7.25.(c) The State Board of Education shall report the results of the pilot to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2010.

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

DEVELOPMENT OF A PREK-20 DATA SYSTEM

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

The PreK-20 data standards and specifications shall include:

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

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

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

PROGRAM ON PREVENTION OF ABUSE AND NEGLECT

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

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

"§ 7B-1301. Program on Prevention of Abuse and Neglect.
(a) The State Board of Education, through the Department of Public Instruction, the Division of Social Services, shall implement the Program on Prevention of Abuse and Neglect. The State Board of Education, subject to the approval of the Department of Public Instruction, Division of Social Services, shall provide the staff and support services for implementing this program.
(b) In order to carry out the purposes of this Article:
(1) The Department of Public Instruction Division of Social Services shall review applications and make recommendations to the State Board of Education concerning the awarding of contracts under this Article.

(2) The State Board of Education Division of Social Services shall contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to operate community-based educational and service programs designed to prevent the occurrence of abuse and neglect. Every contract entered into by the State Board of Education Division of Social Services shall contain provisions that at least twenty-five percent (25%) of the total funding required for a program be provided by the administering organization in the form of in-kind or other services and that a mechanism for evaluation of services provided under the contract be included in the services to be performed. In addition, every proposal to the Department of Public Instruction Division of Social Services for funding under this Article shall include assurances that the proposal has been forwarded to the local department of social services for comment so that the Department of Public Instruction Division of Social Services may consider coordination and duplication of effort on the local level as criteria in making recommendations to the State Board of Education.

(3) The State Board of Education Division of Social Services, with the assistance of the Department of Public Instruction Health and Human Services, shall develop appropriate guidelines and criteria for awarding contracts under this Article. These criteria shall include, but are not limited to: documentation of need within the proposed geographical impact area; diversity of geographical areas of programs funded under this Article; demonstrated effectiveness of the proposed strategy or program for preventing abuse and neglect; reasonableness of implementation plan for achieving stated objectives; utilization of community resources including volunteers; provision for an evaluation component that will provide outcome data; plan for dissemination of the program for implementation in other communities; and potential for future funding from private sources.

(4) The State Board of Education Division of Social Services, with the assistance of the Department of Public Instruction Health and Human Services, shall develop guidelines for regular monitoring of contracts awarded under this Article in order to maximize the investments in prevention programs by the Children's Trust Fund and to establish appropriate accountability measures for administration of contracts.

(5) The State Board of Education Division of Social Services shall develop a State plan for the prevention of abuse and neglect for submission to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(c) To assist in implementing this Article, the State Board of Education Division of Social Services may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All monies received by the State Board of Education Division of Social Services from contributions, grants, or gifts and not through appropriation by the General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds shall be on the authorization of the State Board of Education or that Board's duly authorized representative in the Department of Health and Human Services. In order to maintain an effective expenditure and revenue control, the funds are subject in all respects to State law and regulations, but no appropriation is required to permit expenditure of the funds.
Programs contracted for under this Article are intended to prevent abuse and neglect of juveniles. Abuse and neglect prevention programs are defined to be those programs and services which impact on juveniles and families before any substantiated incident of abuse or neglect has occurred. These programs may include, but are not limited to:

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

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

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

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

"§ 7B-1302. Children's Trust Fund.

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

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

ELIMINATE CERTAIN TESTS

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

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

21ST CENTURY CAREER PAY PLAN FOR TEACHERS

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

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

2. Aligns with the newly adopted North Carolina Professional Teaching Standards.

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

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

5. Considers research and data that supports improved teaching and learning.
(6) Provides optional pathways for salary increases that focus on strategies such as National Board Certified Teachers, literacy coach endorsement and other options that lead to improved student learning.

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

QUALITY TEACHING AND LEARNING TIME

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

PART VIII. COMMUNITY COLLEGES

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM

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

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

FUNDS FOR CAMPUS SECURITY

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

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

USE OF BASIC SKILLS FUNDS

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

FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS
SECTION 8.4. G.S. 115D-40.1 reads as rewritten:
"(c) Administration of Program. – The State Board shall adopt rules and policies for the
disbursement of the financial assistance provided in this section. Degree, diploma, and
certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be
eligible for financial assistance. The State Board may contract with the State Education
Assistance Authority for administration of these financial assistance funds. These funds shall
not revert at the end of each fiscal year but shall remain available until expended for
need-based financial assistance. The interest earned on the funds provided in this section may
be used to support the costs of administering the Community College Grant Program."

CONSOLIDATE NURSING AND ALLIED HEALTH ALLOTMENTS

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

MODIFY MULTICAMPUS AND OFF-CAMPUS CENTER REPORT DATE

SECTION 8.6. G.S. 115D-5 reads as rewritten:
"(o) The General Assembly finds that additional data are needed to determine the
adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and
colleges with off-campus centers shall report annually, beginning September 1, 2005, to the
Community Colleges System Office on all expenditures by line item of funds used to support
their multicampuses and off-campus centers. The Community Colleges System Office shall
report on these expenditures to the Education Appropriation Subcommittees of the House of
Representatives and the Senate, the Office of State Budget and Management, and the Fiscal
Research Division by October 1 December 1 of each year."

REPEAL REPORT ON THE USE OF COMMUNITY COLLEGE FACILITIES BY
PRIVATE BUSINESSES

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

CRIMINAL JUSTICE COORDINATORS TRANSFERRED TO THE SYSTEM
OFFICE

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

EXPAND ELIGIBILITY TO USE PERFORMANCE FUNDING FOR MAINTENANCE
OF PLANT EXPENDITURES

SECTION 8.10. G.S. 115D-31.3 reads as rewritten:
"(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 meets all of
the following:

(1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.
(2) Had an unemployment rate greater than or at least two percent (2%) above
the State average or greater than seven percent (7%), whichever is higher, in
the prior calendar year.
(3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average. Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

CUSTOMIZED TRAINING PROGRAM

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

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

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

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

CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS BIOTECHNOLOGY TRAINING FUNDS


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

LEARN AND EARN ONLINE FUNDS

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

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

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

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

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

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

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

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

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

STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT FLEXIBILITY

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

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

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

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

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

MAINTENANCE OF PLANT FLEXIBILITY

SECTION 8.17. Notwithstanding any other provision of law, a community college that received State funds in fiscal year 2008-2009 for maintenance of plant pursuant to G.S. 115D-31.2 may use noninstructional State funds allocated through the institutional support
allotment for the 2009-2011 biennium for maintenance of plant costs. The amount of funds used in fiscal year 2009-2010 for these purposes may not exceed the total maintenance of plant funds received in fiscal year 2008-2009. The amount of funds used for these purposes in fiscal year 2010-2011 may not exceed fifty (50%) percent of the amount of maintenance of plant funds received in fiscal year 2008-2009 pursuant to G.S. 115-31.2.

PART IX. UNIVERSITIES

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS

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

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

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

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

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

THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND (EARN)
SECTION 9.2.(a) There is appropriated from the General Fund to the State Education Assistance Authority the sum of sixty million dollars ($60,000,000) for the 2009-2010 fiscal year and the sum of sixty million dollars ($60,000,000) for the 2010-2011 fiscal year.

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

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

TRANSFERS OF CASH BALANCES TO THE GENERAL FUND

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

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

TRANSFER FUNDING TO ROANOKE ISLAND COMMISSION FOR ARTS

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

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

UNC CENTER FOR ALCOHOL STUDIES

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

HICKORY METRO HIGHER EDUCATION CENTER MERGER

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

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

SECTION 9.7.(a) Effective July 1, 2009, tuition grants for graduates of the North Carolina School of Science and Mathematics will be phased out. No new recipients shall be funded after June 30, 2009.
SECTION 9.7.(b) G.S. 116-238.1(a) reads as rewritten:
"(a) There is granted to each State resident who graduated from the North Carolina School of Science and Mathematics on or before January 16, 2009, and who enrolls no later than January 31, 2009, as a full-time student in a constituent institution of The University of North Carolina a sum to be determined by the General Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and shall cover the tuition cost at the constituent institution in which the student is enrolled. The tuition grant shall be distributed to the student as provided by this section."

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

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHILD CARE SUBSIDY RATES

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

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

<table>
<thead>
<tr>
<th>FAMILY SIZE</th>
<th>PERCENT OF GROSS FAMILY INCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-3</td>
<td>10%</td>
</tr>
<tr>
<td>4-5</td>
<td>9%</td>
</tr>
<tr>
<td>6 or more</td>
<td>8%</td>
</tr>
</tbody>
</table>

SECTION 10.1.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

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

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.
SECTION 10.1.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

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

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

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

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

1. The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
2. The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
3. The child for whom a child care subsidy is sought is a citizen of the United States.

CHILD CARE ALLOCATION FORMULA

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

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

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

SECTION 10.2.(c) Notwithstanding subsection (a) of this section, the Department of Health and Human Services may reallocate up to twenty million dollars ($20,000,000) in federal block grant funds and State funds appropriated for fiscal years 2009-2010 and
2010-2011 for child care services. These funds shall be allocated to prevent termination of child care services or to maximize use of nonrecurring funds that are available.

CHILD CARE FUNDS MATCHING REQUIREMENT

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

CHILD CARE REVOLVING LOAN

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

INCREASE/ESTABLISH CHILD CARE LICENSING FEES FOR CHILD CARE FACILITIES

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

"§ 110-90. Powers and duties of Secretary of Health and Human Services. The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

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

<table>
<thead>
<tr>
<th>Capacity of Facility</th>
<th>Maximum Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 or fewer children</td>
<td>$52.00</td>
</tr>
<tr>
<td>13-50 children</td>
<td>$187.00</td>
</tr>
<tr>
<td>51-100 children</td>
<td>$375.00</td>
</tr>
<tr>
<td>101 or more children</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVE ENHANCEMENTS

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

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

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.

(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.

(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

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

(1) Be verifiable from the contractor's records.

(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.

(3) Not include expenses funded by State funds.

(4) Be supplemental to and not supplant preexisting resources for related program activities.

(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.

(6) Be otherwise allowable under federal or State law.

(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.

(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

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

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

SECTION 10.6.(e) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2009-2010 and 2010-2011 shall be administered and distributed in the following manner:
(1) Capital expenditures are prohibited for fiscal years 2009-2010 and
2010-2011. For the purposes of this section, "capital expenditures" means
expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

(2) Expenditures of State funds for advertising and promotional activities are
prohibited for fiscal years 2009-2010 and 2010-2011.

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

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

NC HEALTH CHOICE TRANSITION

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

NC HEALTH CHOICE TRANSITION STUDY

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

CHANGES TO MEDICAL POLICY FOR NC HEALTH CHOICE

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


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

(1) During the development of new medical coverage policy or amendment to
existing medical coverage policy applicable to the North Carolina Health
Choice Program for Children, consult with and seek the advice of the
Physician Advisory Group of the North Carolina Medical Society and other
organizations the Secretary deems appropriate. The Secretary shall also  consult with and seek the advice of officials of the professional societies or  associations representing providers who are affected by the new medical  coverage policy or amendments to existing medical coverage policy.

(2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
   a. Publish the proposed new or amended medical coverage policy on  the Department's Web site;
   b. Notify all North Carolina Health Choice Program for Children  providers of the proposed, new, or amended policy; and
   c. Upon request, provide persons copies of the proposed medical  coverage policy.

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

(4) If, following the comment period, the proposed new or amended medical  coverage policy is modified, then the Department shall, at least 15 days prior  to its adoption:
   a. Notify all North Carolina Health Choice Program for Children  providers of the proposed policy;
   b. Upon request, provide persons notice of amendments to the proposed  policy; and
   c. Accept additional oral or written comments during this 15-day  period."

EXEMPTIONS TO RULE MAKING

SECTION 10.10. G.S. 150B-1(d)(9) reads as rewritten:
"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  following:
   …  (9) The Department of Health and Human Services in adopting new or  amending existing medical coverage policies under the State Medicaid  Program and the North Carolina Health Choice Program for  Children,  …."  

NC HEALTH CHOICE MEDICAL POLICY

SECTION 10.11. Unless required for compliance with federal law, the Department  shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC Health Choice health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds one million dollars ($1,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed medical policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding one million dollars ($1,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. For medical policy changes exceeding one million dollars ($1,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical
policy or policy interpretation change with a five-year fiscal analysis to the Office of State
Budget and Management prior to implementing the change. The Department shall provide the
Office of State Budget and Management and the Fiscal Research Division a quarterly report
itemizing all medical policy changes with total requirements of less than one million dollars
($1,000,000).

HEALTH CHOICE ENROLLMENT

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

EXPAND HEALTH CHOICE

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

IMPLEMENTATION OF MMIS/CONTRACT PROVISION

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

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

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

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

SECTION 10.14.(c) Of the funds appropriated in this act to the Department of
Health and Human Services for the MMIS replacement system, the sum of three hundred
thousand dollars ($300,000) for the 2009-2010 fiscal year may be used to hire time-limited
staff to ensure the integration of NC Health Choice into the MMIS project.

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

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

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

MEDICAID

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

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

(2) Allocation of nonfederal cost of Medicaid. – The State shall pay one
hundred percent (100%) of the nonfederal costs of all applicable services
listed in this section. In addition, the State shall pay one hundred percent
(100%) of the federal Medicare Part D clawback payments under the

(3) Use of funds for development and acquisition of equipment and software. –
If first approved by the Office of State Budget and Management, the
Division of Medical Assistance, Department of Health and Human Services,
may use funds that are identified to support the cost of development and
acquisition of equipment and software and related operational costs through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed funds allocated for the 2009-2010 and 2010-2011 fiscal years for the new contract for the fiscal agent for the Medicaid Management Information System.

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

SECTION 10.15.(b) Policy.

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

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

(3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(4) Medical policy. – Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed medical policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. For medical policy changes exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with the five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change. The Department shall provide the Office of
State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

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

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

<table>
<thead>
<tr>
<th>Standard of Need &amp; Families and WFFA*</th>
<th>MEDICALLY NEEDY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Families and Families and</strong></td>
<td><strong>Children &amp;</strong></td>
</tr>
<tr>
<td><em><em>WFFA</em> Children &amp; Payment</em>*</td>
<td><strong>AA, AB, AD</strong>*</td>
</tr>
<tr>
<td><strong>Size</strong></td>
<td><strong>Income Level</strong></td>
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<td>$4,344</td>
</tr>
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<td>2</td>
<td>5,664</td>
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<td>3</td>
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<td>8,952</td>
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<td>8</td>
<td>9,256</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

   b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and...
without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

e. Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.

f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

g. Workers with disabilities described in G.S. 108A-54.1 with unearned income equal to or less than one hundred fifty (150%) of the federal poverty guidelines.

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

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

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

<table>
<thead>
<tr>
<th>Monthly Net Wages</th>
<th>Monthly Incentive Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 to $100.99</td>
<td>Up to $50.00</td>
</tr>
<tr>
<td>$101.00 to $200.99</td>
<td>$80.00</td>
</tr>
<tr>
<td>$201.00 to $300.99</td>
<td>$130.00</td>
</tr>
<tr>
<td>$301.00 and greater</td>
<td>$212.00</td>
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</tbody>
</table>

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

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

(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.

(4) Physicians, certified nurse midwife services, certified registered nurse anesthetists, nurse practitioners. – Fee schedules as developed 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.

(6) Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.

(7) Hearing aids. – Wholesale cost plus dispensing fee to provider.

(8) Rural health clinical services. – Provider-based, reasonable cost, nonprovider-based, single-cost reimbursement rate per clinic visit.

(9) Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g., hospitals, physicians.

(10) Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.

(11) Ambulatory surgical centers.

(12) Private duty nursing, clinic services, prepaid health plans.

(13) Intermediate care facilities for the mentally retarded.

(14) Chiropractors, podiatrists, optometrists, dentists.

(15) Limitations on dental coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

(16) Medicare Buy-In. – Social Security Administration premium.

(17) Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(18) Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.

(19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health.
and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.

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

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

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

(23) Hospice.

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

(25) Health insurance premiums.

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

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

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

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

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

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

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

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

b. For children eligible for EPSDT services provided by:

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

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

c. For Medicaid-eligible adults, services provided by licensed or
certified psychologists, licensed clinical social workers, certified
clinical nurse specialists in psychiatric mental health advanced
practice, and nurse practitioners certified as clinical nurse specialists
in psychiatric mental health advanced practice, licensed
psychological associates, licensed professional counselors, licensed
marriage and family therapists, certified clinical addictions
specialists, and licensed clinical supervisors, Medicaid-eligible adults
may be self-referred.
d. Payments made for services rendered in accordance with this
subdivision shall be to qualified providers in accordance with
approved policies and the State Plan. Nothing in sub-subdivision b.
or c. of this subdivision shall be interpreted to modify the scope of
practice of any service provider, practitioner, or licensee, nor to
modify or attenuate any collaboration or supervision requirement
related to the professional activities of any service provider,
practitioner, or licensee. Nothing in sub-subdivision b. or c. of this
subdivision shall be interpreted to require any private health insurer
or health plan to make direct third-party reimbursements or payments
to any service provider, practitioner, or licensee.

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

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

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

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

The Department shall specify the circumstances under which a performance
bond or executed letter of credit will be required.
(1a) The Department may waive or limit the requirements of this paragraph for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

a. The provider's or provider class's dollar amount of monthly billings to Medicaid.

b. The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.

c. The length of time an individual provider has been enrolled to provide Medicaid services in this State.

d. The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.

e. The need to ensure adequate access to care.

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

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

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

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

(1) Exceptions to service limitations, eligibility requirements, and payments. – Service limitations, eligibility requirements, and payment bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.
(2) Co-payment for Medicaid services. – The Department of Health and Human Services may establish co-payments up to the maximum permitted by federal law and regulation.

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

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

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

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

DMA CONTRACT SHORTFALL

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

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

MEDICAID COST-CONTAINMENT ACTIVITIES

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

Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for
issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**MEDICAID SPECIAL FUND TRANSFER**

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

**EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS REIMBURSEMENT SYSTEM**

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


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

**SECTION 10.20.(b)** The Division of Medical Assistance shall also, in collaboration with the Controller's Office of the Department of Health and Human Services, the
Division of Information Resource Management (DIRM), and the new vendor of the replacement Medicaid Management Information System, develop business rules, program policies and procedures, and define relevant technical requirements.

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

CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS

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

MEDICAID PROVIDER AND RECIPIENT APPEALS

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

(1) Who is aggrieved by a decision of the Department to reduce, deny, recoup, or recover reimbursement for community support services, or to deny, suspend, or revoke a provider agreement to provide community support services.

(2) Whose endorsement has been withdrawn or whose application for endorsement has been denied by a local management entity.

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

(1) A hearing under this section shall be commenced by filing a petition with the chief hearings clerk of the Department within 30 days of the mailing of the notice by the Department of the action giving rise to the contested case. The petition shall identify the petitioner, be signed by the party or representative of the party, and shall describe the agency action giving rise to the contested case. As used in this section, "file or filing" means to place the paper or item to be filed into the care and custody of the chief hearings clerk of the Department and acceptance thereof by the chief hearings clerk, except that...
the hearing officer may permit the papers to be filed with the hearing officer, in which event the hearing officer shall note thereon the filing date. The Department shall supply forms for use in these contested cases.

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

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

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

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

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

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

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

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

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

(4) The hearing officer shall decide the case based upon a preponderance of the evidence, giving deference to the demonstrated knowledge and expertise of the agency as provided in G.S. 150B-34(a). The hearing officer shall prepare a proposal for the decision, citing relevant law, regulations, and evidence,
which shall be served upon the petitioner or the petitioner's representative by certified mail, with a copy furnished to the respondent agency.

(5) The petitioner and the respondent agency shall have 15 days from the date of the mailing of the proposal for decision to present written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who will make the final decision. If neither written arguments are presented, nor extension of time granted by the final agency decision maker for good cause, within 15 days of the date of the mailing of the proposal for decision, the proposal for decision becomes final. If written arguments are presented, such arguments shall be considered and the final decision shall be rendered. The final decision shall be rendered not more than 90 days from the date of the filing of the petition. This time limit may be extended by agreement of the parties or by final agency decision maker, for good cause shown, for an additional period of up to 30 days. The final decision shall be served upon the petitioner or the petitioner's representative by certified mail, with a copy furnished to the respondent agency. In the absence of a petition for judicial review filed pursuant to subsection (f) of this section, the final decision shall be binding upon the petitioner and the Department.

(6) A petitioner who is dissatisfied with the final decision of the Department may file, within 30 days of the service of the decision, a petition for judicial review in the Superior Court of Wake County or of the county from which the case arose. The judicial review shall be conducted according to Article 4 of Chapter 150B of the General Statutes.

(7) In the event of a conflict between federal law or regulations and State law or regulations, federal law or regulations shall control. This section applies to all petitions that are filed by a Medicaid community support services provider on or after July 1, 2008, and for all Medicaid community support services provider petitions that have been filed at the Office of Administrative Hearings previous to July 1, 2008, but for which a hearing on the merits has not been commenced prior to that date. The requirement that the agency decision must be rendered not more than 90 days from the date of the filing of the petition for hearing shall not apply to (i) community support services provider petitions that were filed at the Office of Administrative Hearings or (ii) requests for a hearing under the Department's informal settlement process prior to the effective date of this act. The Office of Administrative Hearings shall transfer all cases affected by this section to the Department of Health and Human Services within 30 days of the effective date of this section. This act preempts the existing informal appeal process and reconsideration review process at the Department of Health and Human Services and the existing appeal process at the Office of Administrative Hearings with regard to all appeals filed by Medicaid community support services providers under the Medical Assistance program.

SECTION 10.22.(c) Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may, pursuant to its statutory authority or federal Medicaid requirements, suspend the endorsement or Medicaid participation of a provider of community support services pending a final agency decision based on a fair hearing of the provider's appeal filed with the Department under its community support provider appeal process. A provider of community support services whose endorsement, Medicaid participation, or services have been suspended is not entitled to payment during the period the
appeal is pending, and the Department shall make no such payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for provider services, and reimburse the provider for payments withheld during the period of appeal. Contracts between the Department or a local management entity and the provider shall contain a provision indicating the circumstances under which a provider may appeal an agency decision and giving notice of the suspension of payments to the provider while the appeal is pending. This subsection applies to community support provider appeals pending in the Department of Health and Human Services or the Office of Administrative Hearings, as applicable, on and after July 1, 2008.

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

SECTION 10.22.(e)

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

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

a. An identification of the applicant or recipient whose services are being affected by the adverse determination, including full name and Medicaid identification number.

b. An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.

c. The specific regulation, statute, or medical policy that supports or requires the adverse determination.

d. The effective date of the adverse determination.

e. An explanation of the applicant's or recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.

f. An explanation of how the applicant or recipient can request a hearing and a statement that the applicant or recipient may represent himself or use legal counsel, a relative, or other spokesperson.

g. A statement that the applicant or recipient will continue to receive Medicaid services at the level provided on the day immediately
preceding the Department's adverse determination or the amount requested by the applicant or recipient, whichever is less, if the applicant or recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.

h. The name and telephone number of a contact person at the Department to respond in a timely fashion to the applicant's or recipient's questions.

i. The telephone number by which the applicant or recipient may contact a Legal Aid/Legal Services office.

j. The appeal request form described in subdivision (4) of this subsection that the applicant or recipient may use to request a hearing.

(3) Appeals. – Except as provided by this subdivision and subdivisions of subsection (f) of this section, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The applicant or recipient must request a hearing within 30 days of the mailing of the notice required by subdivision (2) of this subsection by sending an appeal request form to the Office of Administrative Hearings and the Department. The Department shall immediately forward a copy of the notice to the Office of Administrative Hearings electronically. The information contained in the notice is confidential unless the recipient appeals. The Office of Administrative Hearings may dispose of the records after one year. The Department may not influence, limit, or interfere with the applicant's or recipient's decision to request a hearing.

(4) Appeal request form. – Along with the notice required by subdivision (2) of this subsection, the Department shall also provide the applicant or recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:

a. A statement that in order to request an appeal, the applicant or recipient must send the form by mail or fax to the address or fax number listed on the form within 30 days of mailing of the notice.

b. The applicant's or recipient's name, address, telephone number, and Medicaid identification number.

c. A preprinted statement that indicates that the applicant or recipient would like to appeal the specific adverse determination of which the applicant or recipient was notified in the notice.

d. A statement informing the applicant or recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.

e. A space for the applicant's or recipient's signature and date.

(5) Final decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with subsection (f) of this section. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the applicant or recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes.
(1) Application. – This subsection applies only to contested Medicaid cases commenced by Medicaid applicants or recipients under subsection (f) of this section. Except as otherwise provided by subsection (f) of this section governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid applicant or recipient is subject to the provisions of Article 3 of Chapter 150B of the General Statutes. To the extent any provision in this subsection conflicts with another provision in Article 3 of Chapter 150B of the General Statutes, this subsection and subsection (e) of this section control.

(2) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid applicant or recipient in order to complete the case as quickly as possible. To the extent possible, the Hearings Division shall schedule and hear contested Medicaid cases within 45 days of submission of a request for appeal. The simplified procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case involving a Medicaid applicant or recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing. The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances.

(3) Mediation. – Upon receipt of an appeal request form as provided by subdivision (e)(4) of this section or other clear request for a hearing by a Medicaid applicant or recipient, the chief administrative law judge shall immediately notify the Mediation Network of North Carolina which shall within five days contact the petitioner to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. If mediation is successful, the mediator shall inform the Hearings Division, which shall confirm with the agency that a settlement has been achieved, and the case shall be dismissed. If the petitioner rejects the offer of mediation or the mediation is unsuccessful, the mediator shall notify the Hearings Division that the case will proceed to hearing. Nothing in this subdivision shall restrict the right to a contested case hearing.

(4) Burden of proof. – The petitioner has the burden of proof to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action. The agency has the burden of proof when the appeal is from an agency determination to impose a penalty or reduce, terminate, or suspend a benefit previously granted. The party with the burden of proof on any issue has the burden of going forward, and the administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.

(5) Decision. – The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. The Hearings Division shall send a copy of the audiotape or diskette of the hearing to the
agency within five days of completion of the hearing. The judge shall prepare a written decision and send it to the parties. The decision must be sent together with the record to the agency within 20 days of the conclusion of the hearing.

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

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

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

CLARIFYING CHANGES TO STATE MEDICAID RESPONSIBILITIES

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

DMA REDUCTION OPTION FLEXIBILITY

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

1. Increasing utilization review and management practices to improve value and quality internally or with private vendors with proven records in other states’ Medicaid programs;
2. Expanding and enhancing programs that increase Aged, Blind, and Disabled (ABD) Medicaid eligibles participation within CCNC’s medical home efforts and/or encourage single physician care management;
3. Developing and enhancing incentives for increased provider participation in CCNC;
4. Requiring inpatient and outpatient care management for select Medicaid enrollees;
5. Adopting specific network and physician performance and compliance standards within the Community Care of NC (CCNC) that are tied to any enhanced reimbursement structure;
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(6) Initiative to address State nursing home payment methods and to offer incentives in payment methods to achieve certain quality and cost goals;

(7) Initiative to control drug cost and utilization as well as to maximize collection of supplemental rebates;

(8) Increasing third-party recovery and/or cost avoidance efforts, including enhancing Medicaid fraud and abuse oversight initiatives;

(9) Reducing or eliminating the occurrence of hospital "never events" – nonreimbursement for serious and costly errors in the provision of health care services that should never happen.

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

CO-PAYMENTS FOR TICKET TO WORK

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


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

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

(1) "FPG" means the federal poverty guidelines.

(2) "HCWD" means Health Coverage for Workers With Disabilities.

(3) "SSI" means Supplemental Security Income.

(4) "Ticket to Work" means the Ticket to Work and Work Incentives Improvement Act of 1999.

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

(1) The individual is at least 16 years of age and is less than 65 years of age;

(2) The individual meets Social Security Disability criteria, or the individual has been enrolled in HCWD and then becomes medically improved as defined in Ticket to Work and as further specified by the Department. An individual shall be determined to be eligible under this section without regard to the individual's ability to engage in, or actual engagement in, substantial gainful activity as defined in section 223 of the Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual redetermination of eligibility, the Department may not determine that an individual participating in HCWD is no longer disabled based solely on the individual's participation in employment or earned income;

(3) The individual's unearned income does not exceed one hundred fifty percent (150%) of FPG, and countable resources for the individual do not exceed the resource limit for the minimum community spouse resource standard under 42 U.S.C. § 1396r, and as further determined by the Department. In determining an individual's countable income and resources, the Department may not consider income or resources that are disregarded under the State Medical Assistance Plan's financial methodology, including the sixty-five-dollar ($65.00) disregard, impairment-related work expenses, student earned-income exclusions, and other SSI program work incentive income disregards; and
The individual is engaged in a substantial and reasonable work effort (employed) as provided in this subdivision and as further defined by the Department and allowable under federal law. For purposes of this subsection, "engaged in substantial and reasonable work effort" means all of the following:

a. Working in a competitive, inclusive work setting, or self-employed.

b. Earning at least the applicable minimum wage.

c. Having monthly earnings above the SSI basic sixty-five-dollar ($65.00) earned-income disregard.

d. Being able to provide evidence of paying applicable Medicare, Social Security, and State and federal income taxes.

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

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

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

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

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

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

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

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

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

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

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

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

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

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

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

MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS

SECTION 10.28. The sum of eleven million seventy-one thousand five hundred two dollars ($11,071,502) for fiscal year 2009-2010 and nine million eight hundred twenty thousand six hundred eighty-nine dollars ($9,820,689) for fiscal year 2010-2011 is appropriated from prior year earned revenues received by the Department of Health and Human Services for the Medicaid Management Information System (MMIS) replacement project. These funds shall be deposited to the Department's information technology budget code and will be used to match federal funds for the procurement, design, development, and implementation of the new
MMIS system and to fund the central management of the project. In the event that prior year
earned revenue is not received in these amounts, the Department is authorized with approval of
the Office of State Budget and Management to use other over-realized receipts to the level
appropriated in this section for MMIS expenditures.

MEDICAID FALSE CLAIMS

SECTION 10.29.(a) G.S. 108A-70.11(5) reads as rewritten:
"(5) "Medical Assistance Program" means the Medical Assistance Program
established pursuant to G.S. 108A-54 and includes the North Carolina
Division of Medical Assistance and or its fiscal agent."

SECTION 10.29.(b) G.S. 108A-70.12(a) reads as rewritten:
(a) Liability for Certain Acts. – It shall be unlawful for any provider of medical
assistance under the Medical Assistance Program to do any of the following:
(1) Knowingly present, or cause to be presented to the Medical Assistance
Program a false or fraudulent claim for payment or approval; or
(2) Knowingly make, use, or cause to be made or used a false record or
statement to get a false or fraudulent claim paid or approved by the Medical
Assistance Program.
(3) Conspire to defraud the Medical Assistance Program by obtaining a false or
fraudulent claim allowed or paid.
(4) Knowingly make, use, or cause to be made or used, a false record or
statement to conceal, avoid, or decrease an obligation to pay or transmit
money or property to the Medical Assistance Program. Each claim presented
or caused to be presented in violation of this section is a separate violation."

SECTION 10.29.(c) G.S. 108A-70.12(b)(1) reads as rewritten:
"(b) Damages. –
(1) Except as provided in subdivision (2) of this subsection, a court shall assess
against any provider of medical assistance under the Medical Assistance
Program who violates this section a civil penalty of not less than five
thousand five hundred dollars ($5,000) and not more than ten
thousand dollars ($10,000) plus three

times the amount of damages which the Medicaid Medical Assistance
Program sustained because of the act of the provider."

SECTION 10.29.(d) Article 2 of Chapter 108A of the General Statutes is amended
by adding the following new Part to read:
"Part 7A. Civil Action by Private Persons for Provider False Claims.

§ 108A-70.17. Civil action filed by private persons.
(a) A person may initiate a civil action for a violation of G.S. 108A-70.12 on behalf of
the person and the State. The action shall be brought in the name of the State. The action may
be dismissed prior to service of the complaint upon the defendant under subsection (c) of this
section only if the court and the Attorney General have given written consent to the dismissal
and their reasons for consenting.
(b) A copy of the complaint and written disclosure of substantially all material evidence
and information the person possesses shall be served on the State. The complaint shall be filed
in camera, shall remain under seal for at least 120 days, and shall not be served on the
defendant until the court so orders. The State may elect to intervene and proceed with the
action within 120 days after it receives both the complaint and the material evidence and
information. The State may, for good cause shown, move the court for a partial lifting of the
seal to facilitate the investigative process or settlement.
(c) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal. Any of these motions may be supported by affidavits or other submission in camera. The time period to respond to any complaint filed under this section shall commence 21 days after the complaint is unsealed and served upon the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) If the State elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a person initiating the action proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon a showing of good cause.
(g) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than 60 days. The showing by the State shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or prosecution of the criminal or civil matter.

(h) Notwithstanding G.S. 108A-70.17(b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. Any finding of fact or conclusion of law made in the alternate proceeding that has become final shall be conclusive on all parties to an action under this Part.

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

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

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

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

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

§ 108A-70.17C. Certain actions barred.
(a) No court shall have jurisdiction over an action brought under this Part based on information discovered by a present or former employee of the State or a political subdivision of the State during the course of the present or former employee's employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels, and unless the State or political subdivision failed to act on the information provided within a reasonable period of time.

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

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

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

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

"§ 108A-70.17D. Procedure; statute of limitations.
(a) A civil action under this Part may not be brought after the later of either of the following:

1. More than six years after the date on which the violation is committed.
2. More than three years after the date when facts material to the right of the action are known or reasonably should have been known by the official of the State charged with responsibility to act in the circumstances.

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

"§ 108A-70.15. Employee remedies.
(a) In the absence of fraud or malice, no person who furnishes information to officials of the State responsible for investigating false claims violations shall be liable for damages in a civil action for any oral or written statement made or any other action that is necessary to supply information required pursuant to this Part or Part 7A of this Article.

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

SECTION 10.29.(f) Provided that the Medicaid False Claims State legislation is adopted, and the State legislation meets federal Center for Medicare and Medicaid Services criteria to receive ten percent (10%) bonuses subject to the False Claims Act, the Department of Health and Humans Services, Division of Medical Assistance, shall transfer three hundred
fifty-two thousand one hundred thirty-six dollars ($352,136) in fiscal year 2010-2011, and each
year thereafter, to fund five permanent staff positions at the Attorney General's Office
necessary to implement the Medicaid False Claims Act.

FREEZE MEDICAID PROVIDER RATES

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

NON-MEDICAID REIMBURSEMENT CHANGES

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

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

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

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

<table>
<thead>
<tr>
<th>Provider</th>
<th>FPL Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>DSB Medical Eye Care</td>
<td>125%</td>
</tr>
<tr>
<td>DSB Independent Living &lt;55</td>
<td>125%</td>
</tr>
<tr>
<td>DSB Independent Living 55&gt;</td>
<td>200%</td>
</tr>
<tr>
<td>DSB Vocational Rehabilitation</td>
<td>125%</td>
</tr>
<tr>
<td>DVR Independent Living</td>
<td>125%</td>
</tr>
<tr>
<td>DVR Vocational Rehabilitation</td>
<td>125%</td>
</tr>
</tbody>
</table>

The Department of Health and Human Services shall contract at, or as close as
possible to, Medicaid rates for medical services provided to residents of State facilities of the
Department.
from the Rehabilitation Act. These funds shall be used for the development and implementation
of a data collection and case management information systems to replace the current system in
use by the Division of Services for the Blind, the Division of Services for the Deaf and Hard of
Hearing, and for the Division of Vocational Rehabilitation Services. Whenever possible, the
Department shall use federal funds first and State funds from Budget Code 67425 only as
necessary. In accordance with G.S. 143C-1-2(b), funds appropriated for this project shall not
revert to the fund from which they came until the project is complete.

VITAL RECORDS FEES

SECTION 10.33. G.S. 130A-93.1 reads as rewritten:
"§ 130A-93.1. Fees for vital records copies or search; automation fund.
   (a) The State Registrar shall collect, process, and utilize fees for services as follows:
      (1) A fee not to exceed fifteen twenty-four dollars ($15.00) ($24.00) shall be charged for issuing any copy a first copy of a vital record or for conducting a routine search of the files for the record when no copy is made. A fee of fifteen dollars ($15.00) shall be charged for each additional certificate copy requested from the same search. When certificates are issued or searches conducted for statewide issuance by local agencies using databases maintained by the State Registrar, the local agency shall charge this fee and shall forward five dollars ($5.00) of this fee retain ten dollars ($10.00) of these fees to cover local administrative costs and forward the remaining fee to the State Registrar.
      (2) A fee not to exceed fifteen ($15.00) in-State and twenty dollars ($20.00) out-of-state shall be charged in addition to the fee charged under subdivision (a)(1) of this subsection and to all shipping and commercial charges when expedited service is specifically requested.
      (2a) The fee for a copy of a computer or microform database shall not exceed the cost to the agency of making and providing the copy.
      (3) Except as provided in subsection (b) of this section, fees collected under this subsection shall be used by the Department for public health purposes.
   (b) The Vital Records Automation Account is established as a nonreverting account within the Department. Five dollars ($5.00) of each fee collected pursuant to subdivision (a)(1) shall be credited to this Account. The Department shall use the revenue in the Account to fully automate and maintain the vital records system. When funds sufficient to fully automate and maintain the system have accumulated in the Account, fees shall no longer be credited to the Account but shall be used as specified in subdivision (a)(3) of this section."

CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

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

SECTION 10.34.(b) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Health Disparities Initiative shall be awarded as a grant-in-aid to honor the memory of the following recently deceased members of
the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

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

1. Which community programs and local health departments received CFEHDI grants.
2. What amount of funding did each program or local health department receive.
3. Which of the minority populations were served by the programs or local health departments.
4. Which counties were served by the programs or local health departments.
5. What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.

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

FUNDS FOR SCHOOL NURSES

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

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

AIDS DRUG ASSISTANCE PROGRAM

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

PHYSICIAN SERVICES

SECTION 10.37. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician
services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

LIABILITY INSURANCE

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

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

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

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

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

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

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

CHILD SUPPORT PROGRAM/ENHANCED STANDARDS

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

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

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

CHANGES TO FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.43.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:
(1) $475.00 per child per month for children aged birth through 5;
(2) $581.00 per child per month for children aged 6 through 12; and
(3) $634.00 per child per month for children aged 13 through 18.

SECTION 10.43.(b) The maximum rates for the State adoption assistance program are established consistent with the foster care rates as follows:
(1) $475.00 per child per month for children aged birth through 5;
(2) $581.00 per child per month for children aged 6 through 12; and
(3) $634.00 per child per month for children aged 13 through 18.

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

SECTION 10.43.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:
(1) $800.00 per child per month with indeterminate HIV status;
(2) $1,000 per child per month confirmed HIV-infected, asymptomatic;
(3) $1,200 per child per month confirmed HIV-infected, symptomatic; and
(4) $1,600 per child per month terminally ill with complex care needs.

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

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

CHILD CARING INSTITUTIONS

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

SPECIAL CHILDREN ADOPTION FUND

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

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

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

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCEHAT FUND

SECTION 10.46.(a) Of the funds appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of three million one hundred sixty-eight thousand two hundred fifty dollars ($3,168,250) for the 2009-2010 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars ($3,168,250) for the 2010-2011 fiscal year shall be used to support a child welfare postsecondary program in accordance with this section. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million six hundred sixty-eight thousand two hundred fifty dollars ($1,668,250) for the 2010-2011 fiscal year. These funds shall be used to support a child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087ll. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

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

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.
The purpose for which funds are appropriated under this subsection is in addition to other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not be construed to otherwise affect the distribution of funds under G.S. 116B-7.

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

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

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

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

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

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

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

SECTION 10.47.(c) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.
SECTION 10.47.(d) The Department shall publish an annual report on the Intensive Family Preservation Services Program, including the information and data under subdivisions (b)(2) through (b)(6) of this section.

TANF BENEFIT IMPLEMENTATION

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

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

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

LIMITATION ON STATE ABORTION FUND

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

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

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

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

a. The development of a strong infrastructure of interagency collaboration;

b. One child, one team, one plan;

c. Individualized strengths-based care;
(d) Accountability;
(e) Cultural competence;
(f) Children at risk of school failure or out-of-home placement may enter the system through any participating agency;
(g) Services shall be specified, delivered, and monitored through a unified Child and Family Plan that is outcome-oriented and evaluation-based;
(h) Services shall be the most efficient in terms of cost and effectiveness and shall be delivered in the most natural settings possible;
(i) Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community; and
(j) Families and consumers shall be involved in decision making throughout service planning, delivery, and monitoring.

(2) Program goals and services. – In order to ensure that children receiving services are appropriately served, the affected State and local agencies shall:
(a) Increase capacity in the school setting to address the academic, health, mental health, social, and legal needs of children.
(b) Ensure that children receiving services are screened initially to identify needs and assessed periodically to determine progress and sustained improvement in educational, health, safety, behavioral, and social outcomes.
(c) Develop uniform screening mechanisms and a set of outcomes that are shared across affected agencies to measure children’s progress in home, school, and community settings.
(d) Promote practices that are known to be effective based upon research or national best practice standards.
(e) Review services provided across affected State agencies to ensure that children's needs are met.
(f) Eliminate cost shifting and facilitate cost-sharing among governmental agencies with respect to service development, service delivery, and monitoring for participating children and their families.
(g) Participate in a local memorandum of agreement signed annually by the participating superintendent of the local LEA, directors of the county departments of social services and health, director of the local management entity, the chief district court judge, and the chief district court counselor.

(3) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), the local board of education shall establish the School-Based Child and Family Team Initiative (Initiative) at designated schools and shall appoint the Child and Family Team Leaders who shall be a school nurse and a school social worker. Each local management entity that has any selected schools in its catchment area shall appoint a Care Coordinator, and any department of social services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors.
Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team Initiative is as follows:

a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.

b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

c. The local department of public health shall take the lead role for those children and their families whose primary unmet needs are health-related.

d. Local departments of social services shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.

e. The chief district court counselor shall take the lead for those children and their families whose primary unmet needs are related to juvenile justice issues.

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

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

a. The number of and other demographic information on children screened and assigned to a team and a description of the services needed by and provided to these children;

b. The number of and information about children assigned to a team who are placed in programs or facilities outside the child's home or outside the child's county and the average length of stay in residential treatment;

c. The amount and source of funds expended to implement the Initiative;

d. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring;

e. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes; and

f. Recommendations on needed improvements.

(5) Local advisory committee. – In each county with a participating school, the superintendent of the local LEA shall either identify an existing cross agency collaborative or council, or shall form a new group, to serve as a local advisory committee to work with the Initiative. Newly formed committees shall be chaired by the superintendent and one other member of the committee to be elected by the committee. The local advisory committee shall include the directors of the county departments of social services and health, the directors of the local management entity, the chief district court judge, the chief district court counselor, the director of a school-based or school-linked health center if a center is located within the catchment area of
the School-Based Child and Family Team Initiative, and representatives of
other agencies providing services to children, as designated by the
committee. The members of the committee shall meet as needed to monitor
and support the successful implementation of the School-Based Child and
Family Team Initiative.

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

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

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

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

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

(4) The Council shall:

a. Sign an annual memorandum of agreement (MOA) among the named
   State agencies to define the purposes of the program and to ensure
   that program goals are accomplished.

b. Resolve State policy issues, as identified at the local level, which
   interfere with effective implementation of the School-Based Child
   and Family Team Initiative.

c. Direct the integration of resources, as needed, to meet goals and
   ensure that the Initiative promotes the most effective and efficient
   use of resources and eliminates duplication of effort.

d. Establish criteria for defining success in local programs and ensure
   appropriate outcomes.

e. Develop an evaluation process, based on expected outcomes, to
   ensure the goals and objectives of this Initiative are achieved.

f. Review progress made on integrating policies and resources across
   State agencies, reaching expected outcomes, and accomplishing other
goals.

g. Report semiannually, on January 1 and July 1, on progress made and
goals achieved to the Office of the Governor, the Joint
Appropriations Committees and Subcommittees on Education,
Justice and Public Safety, and Health and Human Services, and the
Fiscal Research Division of the Legislative Services Office.

The Council may designate existing cross agency collaboratives or councils
as working groups or to provide assistance in accomplishing established
goals.
SECTION 10.50.(c) Department of Health and Human Services. – The Secretary of the Department of Health and Human Services shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

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

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

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

STATE-COUNTY SPECIAL ASSISTANCE

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

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

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

SECTION 10.51.(d) Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State-County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State-County Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State-County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing this section, the Department may disregard a limited amount of
income for individuals whose countable income exceeds the adjusted State-County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

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

SPECIAL ASSISTANCE IN-HOME

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

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

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

STUDY COMMISSION ON THE STATEWIDE TRAUMA SYSTEM
SECTION 10.54.(a) The General Assembly of North Carolina shall create the Legislative Study Commission on the Statewide Trauma System. The Commission shall consist of 12 voting members appointed as follows:

(1) Six members appointed by the Speaker of the House of Representatives, to include:
   a. Four members of the House of Representatives.
   b. One person who is a member of the North Carolina Emergency Medical Services Advisory Council.
   c. One member of the general public.

(2) Six members appointed by the President Pro Tempore of the Senate, to include:
   a. Four members of the Senate.
   b. One hospital Chief Executive Officer.
   c. One member of the general public.

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

SECTION 10.54.(b) The Commission shall:

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

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

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

DHSR LICENSE FEE INCREASES

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

"§ 131D-2. Licensing of adult care homes for the aged and disabled.
   (b) Licensure; inspections. –
   (1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of three hundred fifteen dollars ($315.00) two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual
license fee in the amount of three hundred sixty dollars ($360.00) three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of seventeen dollars and fifty cents ($17.50) twelve dollars and fifty cents ($12.50)."

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

"§ 131E-147. Licensure requirement.
(a) No person shall operate an ambulatory surgical facility without a license obtained from the Department.
(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of eight hundred fifty dollars ($850.00) seven hundred dollars ($700.00) plus a nonrefundable annual per-operating room fee in the amount of seventy-five dollars ($75.00) fifty dollars ($50.00)."

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

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

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

"§ 131E-138. Licensure requirements.
(c) (Effective July 1, 2009) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of five hundred ten dollars ($510.00) four hundred dollars ($400.00)."

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

"§ 131E-77. Licensure requirement.
(a) No person or governmental unit shall establish or operate a hospital in this state without a license. An infirmary is not required to obtain a license under this Part.
(b) The Commission shall prescribe by rule that any licensee or prospective applicant seeking to make specified types of alteration or addition to its facilities or to construct new facilities shall submit plans and specifications before commencement to the Department for preliminary inspection and approval or recommendations with respect to compliance with the applicable rules under this Part.
(c) An applicant for licensing under this Part shall provide information related to hospital operations as requested by the Department. The required information shall be submitted by the applicant on forms provided by the Department and established by rule.
(d) The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:
<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Number of Beds</th>
<th>Base Fee</th>
<th>Per-Bed Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Acute Hospitals:</td>
<td>1-49 beds</td>
<td>$250.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>50-99 beds</td>
<td>$350.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>100-199 beds</td>
<td>$450.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>200-399 beds</td>
<td>$550.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>400-699 beds</td>
<td>$750.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>700+ beds</td>
<td>$950.00</td>
<td>$12.50</td>
</tr>
<tr>
<td>Other Hospitals:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 to 6 beds</td>
<td>$250.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>More than 6 beds</td>
<td>$350.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>1 to 6 beds</td>
<td>$650.00</td>
<td>$12.50</td>
</tr>
<tr>
<td></td>
<td>More than 6 beds</td>
<td>$650.00</td>
<td>$12.50</td>
</tr>
</tbody>
</table>

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

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

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

§ 122C-23. Licensure.

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

<table>
<thead>
<tr>
<th>Type of Facility</th>
<th>Number of Beds</th>
<th>Base Fee</th>
<th>Per-Bed Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities (non-ICF/MR):</td>
<td>0 beds</td>
<td>$175.00</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>1 to 6 beds</td>
<td>$250.00</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>More than 6 beds</td>
<td>$350.00</td>
<td>$12.50</td>
</tr>
<tr>
<td>ICF/MR Only:</td>
<td>1 to 6 beds</td>
<td>$650.00</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>More than 6 beds</td>
<td>$650.00</td>
<td>$12.50</td>
</tr>
</tbody>
</table>

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

§ 131E-102. Licensure requirements.

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

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

NC NOVA

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

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

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

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

1. Published books, manuscripts, maps, pamphlets and periodicals.
2. Fresh vegetables, fresh fish, fresh meat, eggs, and
   others as may be classified by the Secretary of Administration.

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

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

FILLING SERVICE GAPS

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

INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT

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

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

SECTION 10.59.(c) In providing treatment and services for adult offenders and increasing the number of TASC case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based
interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and DOC releasees who have completed substance abuse treatment while in custody.

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

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

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

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

MENTAL HEALTH CHANGES

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

SECTION 10.60.(b) Of the funds appropriated for substance abuse services to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2009-2010 and 2010-2011 fiscal years, the sum of at least eight million dollars ($8,000,000) shall be allocated for regionally purchased locally hosted substance abuse services. These funds shall be used to support LMEs in establishing additional regionally purchased and locally hosted substance abuse programs. Funds appropriated shall be for the purpose of developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. The Department of Health and Human Services shall work with LMEs in establishing these programs. LMEs shall
report to the Department of Health and Human Services on the LMEs' use of the funds. Reporting dates and frequency shall be as determined by the Department.

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

SECTION 10.60.(d) The Department shall perform a services gap analysis of the Mental Health, Developmental Disabilities, and Substance Abuse Services System. The Department of Health and Human Services shall involve LMEs in performing the gap analysis. The Department shall report the results of its analysis to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than January 1, 2010.

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

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

SECTION 10.60.(g) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of eight million one hundred twenty-one thousand six hundred forty-four dollars ($8,121,644) shall be allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 10 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as
evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Pilot funds appropriated in S.L. 2007-323.

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

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

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

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

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

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

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

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

SECTION 10.60.(p) The Department of Health and Human Services shall develop a plan to return the service authorization, utilization review, and utilization management functions to LMEs for all clients. Not later than July 1, 2009, utilization review, utilization management, and service authorization for publicly funded mental health, developmental disabilities, and substance abuse services shall be returned to LMEs representing in total at least thirty percent (30%) of the State's population. An LME must be accredited for national accreditation under behavioral health care standards by a national accrediting entity approved by the Secretary and must demonstrate readiness to meet all requirements of the existing vendor contract with the Department for such services in order to provide service authorization, utilization review, and utilization management to Medicaid recipients in the LME catchment area. The Department shall comply with the requirements of S.L. 2007-323, Section 10.49(ee).

The Department shall not contract with an outside vendor for service authorization, utilization review, or utilization management functions, or otherwise obligate the State for these functions beyond September 30, 2010. The Department shall require LMEs to include in their service authorization, utilization management, and utilization review, a review of assessments, as well as person-centered plans and random or triggered audits of services and assessments. The Department may also develop and implement a plan to return plan authorization for CAP-MR/DD slots to LMEs.

IMPROVE THE QUALITY OF CARE PROVIDED BY DIRECT CARE STAFF

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

TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED SERVICES TO THE LOCAL MANAGEMENT ENTITIES

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

SENIOR CENTER OUTREACH

SECTION 10.63.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2009-2011 fiscal biennium, shall be
used by the Division of Aging and Adult Services to enhance senior center programs as 
follows:

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

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

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

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

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

DHHS BLOCK GRANTS

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

TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT

Local Program Expenditures

<table>
<thead>
<tr>
<th>Division of Social Services</th>
<th>$87,518,579</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work First Family Assistance (Cash Assistance)</td>
<td>87,518,579</td>
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<tr>
<td>Work First County Block Grants</td>
<td>94,453,315</td>
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<tr>
<td>Child Protective Services – Child Welfare Workers for Local DSSs</td>
<td>14,452,391</td>
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<tr>
<td>Work First – Connect, Inc. (Work Central)</td>
<td>38,548</td>
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<tr>
<td>Child Welfare Collaborative Transition</td>
<td>1,019,193</td>
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</table>

Division of Child Development

<table>
<thead>
<tr>
<th>Subsidized Child Care Program</th>
<th>61,087,077</th>
</tr>
</thead>
</table>

Division of Public Health

| Teen Pregnancy Prevention Initiatives | 450,000 |

DHHS Administration

<table>
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<tr>
<th>Division of Social Services</th>
<th>1,093,176</th>
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<td>Office of the Secretary</td>
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<tr>
<td>Office of the Secretary/DIRM – TANF Automation Projects</td>
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<tr>
<td>Office of the Secretary/DIRM – NCFAST Implementation</td>
<td>1,200,000</td>
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</table>

Transfers to Other Block Grants

| Transfer to Child Care and Development Fund | 84,330,900 |

Division of Child Development

| Transfer to Child Care and Development Fund | 84,330,900 |

Division of Social Services

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

TEMPORARY ASSISTANCE TO NEEDY FAMILIES

BLOCK GRANT TOTAL | $357,396,373 |
### TEMPORARY ASSISTANCE TO NEEDY FAMILIES CONTINGENCY FUNDS BLOCK GRANT

#### Local Program Expenditures

**Division of Social Services**

1. Work First Family Assistance (Cash Assistance) $1,857,193
2. Work First – Boys and Girls Clubs 1,200,000
3. Work First – After-School Services for At-Risk Children 1,229,785
4. Work First – After-School Programs for At-Risk Youth in Middle Schools 300,000
5. Work First – Connect, Inc. (Work Central) 330,000
6. Work First – Citizens Schools Program 360,000
7. County Demonstration Grants 3,239,789
8. Adoption Services – Special Children’s Adoption Fund 3,000,000
9. Conversion Pay for Performance Work First Benefits 1,959,020
10. Family Violence Prevention 1,200,000
11. Functional Assessment 600,000
12. Electing County State Funding Swap Out 2,378,213
13. State Subsidized Child Care Funding Swap 12,452,484

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES CONTINGENCY FUNDS BLOCK GRANT TOTAL** $30,106,484

### SOCIAL SERVICES BLOCK GRANT

#### Local Program Expenditures

**Divisions of Social Services (DSS) and Aging & Adult Services (DAAS)**

1. County Departments of Social Services (Transfer from TANF – $4,500,000) $28,868,189
2. State In-Home Services Fund 2,101,113
3. State Adult Day Care Fund 2,155,301
5. Foster Care Services (Transfer from TANF $390,000) 2,372,619
6. Maternity Homes (Transfer from TANF) 838,000
7. Special Children Adoption Incentive Fund 500,000
8. CPS – Child Welfare Training for Counties (Transfer from TANF) 2,729,802

**Division of Aging and Adult Services**

9. Home and Community Care Block Grant (HCCBG) 1,834,077

**Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**

10. Mental Health Services Program 422,003
11. Developmental Disabilities Services Program 5,000,000
12. Mental Health Services-Adult/Mental Health Services-Child/Developmental Disabilities Program/Substance Abuse Services-Adult 3,234,601

**Division of Child Development**

13. Subsidized Child Care Program 3,150,000

**Division of Vocational Rehabilitation**

14. Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program 188,263

**Division of Public Health**

15. Teen Pregnancy Prevention Initiatives (Transfer from TANF) 2,500,000
16. Services to Medically Fragile Children (Transfer from TANF) 290,000

**DHHS Program Expenditures**

**Division of Aging and Adult Services**
<table>
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<tr>
<th>#</th>
<th>Program</th>
<th>Amount</th>
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</thead>
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<td>Division of Health Service Regulation</td>
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<td>Adult Care Licensure Program</td>
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<td>Mental Health Licensure and Certification Program</td>
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<td>Division of Mental Health, Developmental Disabilities, and Substance</td>
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<td>Local Program Expenditures</td>
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<td>36</td>
<td>PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT</td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>Local Program Expenditures</td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>Division of Public Health</td>
<td></td>
</tr>
<tr>
<td>39</td>
<td>NC Statewide Health Promotion</td>
<td>$1,730,653</td>
</tr>
<tr>
<td>40</td>
<td>Services to Rape Victims</td>
<td>197,112</td>
</tr>
<tr>
<td>41</td>
<td>HIV/STD Prevention and Community Planning (Transfer from SSBG)</td>
<td>145,819</td>
</tr>
<tr>
<td>42</td>
<td>DHHS Program Expenditures</td>
<td></td>
</tr>
<tr>
<td>43</td>
<td>Division of Public Health</td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>NC Statewide Health Promotion</td>
<td>1,699,044</td>
</tr>
<tr>
<td>45</td>
<td>Oral Health</td>
<td>70,000</td>
</tr>
<tr>
<td>46</td>
<td>State Laboratory of Public Health</td>
<td>16,600</td>
</tr>
<tr>
<td>47</td>
<td>PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT TOTAL$3,859,228</td>
<td></td>
</tr>
<tr>
<td>48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>49</td>
<td>COMMUNITY SERVICES BLOCK GRANT</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>Local Program Expenditures</td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>Office of Economic Opportunity</td>
<td></td>
</tr>
</tbody>
</table>
SECTION 10.64.(b) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section.

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

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

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

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

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.64.(e) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.
SECTION 10.64.(f) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

ADDITIONAL CHILD CARE AND DEVELOPMENT BLOCK GRANT

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

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

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

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

SOCIAL SERVICES BLOCK GRANT

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

TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT

SECTION 10.64.(j) The Department of Health and Human Services shall continue to support on a recurring basis payments to maternity home providers. The budget is established at one million two hundred fifty-eight thousand dollars ($1,258,000) per year, funded from eight hundred thirty-eight thousand dollars ($838,000) in TANF Block Grant
funds along with federal funds and one hundred five thousand dollars ($105,000) in state appropriations available to the Department.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

REMOVE CAP ON ANIMAL DISEASE DIAGNOSTIC TEST FEES

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

PESTICIDE REGISTRATION FEE

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

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

PETROLEUM DEVICE TECHNICIAN FEE

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

PLANT CONSERVATION PROGRAM

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

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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

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

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

NEUSE RIVER RAPID RESPONSE TEAM

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

ELIMINATE OFFICE OF ENVIRONMENTAL EDUCATION

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

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

SECTION 12.4.(c) To ensure that environmental education is incorporated into the educational programs of the State, the Department of Environment and Natural Resources, as part of the Office elimination, shall transfer information about resources of the Department to the following agencies where environmental education functions shall now reside: the Department of Public Instruction's K-12 Curriculum Units, which develop the standard courses of study related to science; the Academic and Student Services Division of the NC Community College System for incorporation into curricula in Agriculture and Natural Resources and other related courses of study; and the University of North Carolina General Administration's Division of Academic Affairs Academic Planning area, which maintains the inventory of programs of the various campuses of the University system and oversees creation of new programs of study. Library resources shall be transferred to the State Library in the Department of Cultural Resources. The Department of Environment and Natural Resources shall provide links on its Web site to direct the public where to find these resources via Web-based, interlibrary loan, or other sources.

SECTION 12.4.(d) By March 1, 2010, the Department of Environment and Natural Resources, Department of Public Instruction, NC Community College System, University of North Carolina, and Department of Cultural Resources shall report to the Office of State Budget and Management on the steps taken to incorporate each of the functions designated for transfer.

APPROPRIATION FOR CLEAN WATER MANAGEMENT TRUST FUND
SECTION 12.5. Notwithstanding G.S. 113A-253.1(a) for the 2009-2011 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2009-2010 fiscal year is seventy-five million dollars ($75,000,000), and the appropriation for the 2010-2011 fiscal year is seventy-five million dollars ($75,000,000) as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 113A-253.

PART XIII. DEPARTMENT OF COMMERCE

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 13.1.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2009-2010 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000).

SECTION 13.1.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars ($20,000,000) for the 2009-2010 fiscal year to be used for the following purposes:

1. $19,700,000 for the operation and support of local ESC offices.
2. $200,000 for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.
3. $100,000 to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION 13.1.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars ($1,000,000) for the 2009-2010 fiscal year to fund State initiatives not currently funded through federal grants.

CHANGE SAFETY EDUCATION SECTION TO RECEIPT SUPPORT

SECTION 13.2. The Safety Education Section of the Industrial Commission shall become fee supported effective July 1, 2010. The Industrial Commission is authorized to establish a fee schedule for all services provided by the Safety Education Section to support the operations of this program.

INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT

SECTION 13.3.(a) The North Carolina Industrial Commission may continue to retain the additional revenue generated as a result of the increase in the fee charged to parties for the filing of compromised settlements from the previous amount of two hundred dollars ($200.00) to the new fee not to exceed three hundred twenty-five dollars ($325.00). These funds shall be used for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase and to develop and administer the needed database(s) and new Electronic Case Management System, including the establishment of two time-limited positions for application development and support and mainframe migration. The Commission may not retain any fees under this section unless they are in excess of the former
two hundred dollar ($200.00) fee charged by the Commission for filing a compromised settlement.

SECTION 13.3.(b) Nothing in this section shall be deemed to limit or restrict the Commission's authority to increase fees for purposes other than those indicated in subsection (a) of this section.

SECTION 13.3.(c) Unexpended and unencumbered fees retained by the Industrial Commission under subsection (a) of this section shall not revert to the General Fund on June 30 of each fiscal year, but shall remain available to the Commission for the purposes stated in subsection (a) of this section.

SECTION 13.3.(d) The Commission may retain additional fees as authorized by subsection (a) of this section for the 2009-2011 biennium.

NC GREEN BUSINESS FUND

SECTION 13.4. Of the funds appropriated to the NC Green Business Fund for prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become unencumbered and unexpended thereafter, the Department of Commerce may use up to fifty thousand dollars ($50,000) in the 2009-2010 fiscal year, if necessary, to cover the Department's expenses in administering the NC Green Business Fund.

ONE NORTH CAROLINA FUND

SECTION 13.5. Of the funds appropriated to the One North Carolina Fund for prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become unencumbered and unexpended thereafter, the Department of Commerce may use up to three hundred thousand dollars ($300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2009-2010 fiscal year.

EXTEND JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

SECTION 13.6. G.S. 143B-437.62 reads as rewritten:

"The authority of the Committee to enter into new agreements expires January 1, 2010 2012."

PART XIV. JUDICIAL DEPARTMENT

JUDICIAL DEPARTMENT GRANT FUNDS

SECTION 14.1. Notwithstanding G.S. 143C-6-9, the Judicial Department may use up to the sum of one million five hundred thousand dollars ($1,500,000) during the 2009-2010 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using these funds for this purpose, the Department shall report to the Chairs of the House of Representative and the Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission of Governmental Operations on the grants to be matched using these funds.

GUIDELINES FOR MAXIMIZING EFFICIENCY OF PROCEEDINGS

SECTION 14.2. By December 1, 2009, the Administrative Office of the Courts shall develop guidelines to be applied to maximize efficient use of the time of probation officers and court personnel participating in probation revocation proceedings. The Administrative Office of the Courts may also adopt guidelines for maximizing the efficient use of the time of law enforcement personnel participating in the Criminal District Courts.

ELIMINATE SENTENCING SERVICES PROGRAM
SECTION 14.3. Article 61 of Chapter 7A of the General Statutes is repealed.

INCREASE COURT FEES

SECTION 14.4. The Administrative Office of the Courts is authorized to increase various court fees by a total of ten dollars ($10.00).

PART XV. DEPARTMENT OF JUSTICE

INCREASE CRIME LAB ANALYSIS FEE

SECTION 15.1. G.S. 7A-304(7) reads as rewritten:

"(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars ($300), six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

ESTABLISHMENT OF A GANG PREVENTION AND INTERVENTION PILOT PROGRAM

SECTION 16.1. The Department of Juvenile Justice and Delinquency Prevention shall establish a two-year Gang Prevention and Intervention Pilot Program, as part of the Governor's Comprehensive Gang Initiative, that will focus on youth at risk for gang involvement and those who are already associated with gangs and gang activity. The Department of Juvenile Justice and Delinquency Prevention shall:

(1) Ensure that measurable performance indicators and systems are put in place to evaluate the effectiveness of the pilot program, and
(2) Conduct both process and outcome-focused evaluations of the pilot program to determine community and institutional impacts of the pilot program pertaining to gang behavior, desistance, and/or activities. These evaluations may consider the degree of successful implementation of the program and measurable changes in gang related and/or gang affiliated behaviors noted in institutional, court system, and communities and related programs.

ELIMINATE SUPPORT OUR STUDENTS PROGRAM

SECTION 16.2. Part 5A of Article 3 of Chapter 143B of the General Assembly is repealed.

PART XVII. DEPARTMENT OF CORRECTION

INMATE ROAD SQUADS AND LITTER CREWS

SECTION 17.1. Of the funds appropriated to the Department of Transportation in this act, the sum of eleven million three hundred thousand dollars ($11,300,000) per year shall be transferred by the Department to the Department of Correction during the 2009-2010 and
2010-2011 fiscal years for the cost of operating medium custody inmate road squads, as authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be made quarterly in the amount of two million eight hundred twenty-five thousand dollars ($2,825,000). The Department of Transportation may use funds appropriated in this act to pay an additional amount exceeding the eleven million three hundred thousand dollars ($11,300,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 17.2. Notwithstanding G.S. 143C-6-9, the Department of Correction may use funds available to the Department for the 2009-2011 fiscal biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29.

USE OF CLOSED PRISON FACILITIES

SECTION 17.3. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

FEDERAL GRANT MATCHING FUNDS

SECTION 17.4. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million dollars ($1,000,000) during the 2009-2010 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 House of Representatives and Senate Appropriations Subcommittees on
Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

CRIMINAL JUSTICE PARTNERSHIP

SECTION 17.5. Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT

SECTION 17.6. The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2009-2011 fiscal biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction.

PART XVIII. OFFICE OF STATE BUDGET AND MANAGEMENT

MILITARY MORALE, RECREATION, AND WELFARE FUNDS

SECTION 18.1.(a). There is appropriated from the General Fund to a Reserve for the Military Morale, Recreation, and Welfare Fund in the Office of State Budget and Management the sum of one million dollars ($1,000,000) in the 2009-2010 fiscal year.

SECTION 18.1.(b) The Office of State Budget and Management shall distribute for the purposes described in this section the amount appropriated by subsection (a) of this section. That amount shall be distributed to each military installation on a per capita basis.

SECTION 18.1.(c) Funds distributed to a military installation exchange under this section must be deposited in the Military Morale, Recreation, and Welfare Fund for that installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

LICENSING BOARD REPORTING REQUIREMENT

SECTION 18.2. G.S. 93B-2(b) reads as rewritten:

"(b) Each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period."

GOVERNMENT BUDGET AND EFFICIENCY REFORM

SECTION 18.3. The Office of State Budget and Management (OSBM) may use available funds to identify and implement efficiencies and government reorganization in compliance with G.S. 143B-12, 143B-10, and 143B-28. The efficiencies should include, but are not limited to, the identification of program functions which could operate more efficiently if consolidated; identification of programs which no longer meet critical needs of the State which can be eliminated; recommendation of ways to reconfigure selected State agencies to achieve greater efficiency and improve accountability; calculation of costs and benefits of privatizing selected operations; calculation of costs and benefits of bringing certain contracted services into government; and enhancement of systems to support such decision making on a
continuous basis in the future. Where appropriate, such studies shall be conducted in consultation with other regulatory or oversight agencies, such as the Office of State Personnel, the Office of State Controller, the Division of Purchase & Contract, the Fiscal Research Division, or the Office of the Chief Information Officer. OSBM may contract with outside resources where necessary and appropriate.

STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS

SECTION 18.4.(a) Section 6.7(a) and (c) of S.L. 2007-323 are repealed.

SECTION 18.4.(b) Section 6.7 of S.L. 2007-323 is amended by adding a new subsection to read:

"SECTION 6.7.(f) The Office of State Budget and Management shall conduct annual follow-up analyses of the core business functions of State government agencies, and shall report on its findings to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division, using the same format as prior years, to provide comparative information regarding staffing requirements for central business functions of State government. This report shall be due March 1, 2010 and March 1, 2011."

PART XIX. DEPARTMENT OF STATE TREASURER

ESCHEAT FUND TRANSFERS TO STATE EDUCATION ASSISTANCE AUTHORITY

SECTION 19.1. Notwithstanding G.S. 116B-7, the income earned in 2008-2009 and derived from the investment or deposit of the Escheat Fund shall be distributed in two semiannual payments to the State Education Assistance Authority. These payments shall be made on or before July 15, 2009, and on or before November 15, 2009.

PART XX. DEPARTMENT OF REVENUE

20% COLLECTION ASSISTANCE FEE

SECTION 20.1. 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 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, 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.

(7) To pay for the replacement of the integrated tax administration system (ITAS) and related e-Business initiatives, not to exceed forty million dollars ($40,000,000).

PART XXI. NORTH CAROLINA TURNPIKE AUTHORITY

NORTH CAROLINA TURNPIKE AUTHORITY

SECTION 21.1. G.S. 136-89.182 reads as rewritten:

"(b) Administrative Placement. – The Authority shall be located within the Department of Transportation for administrative purposes but shall exercise all of its powers independently of the Department of Transportation except as otherwise specified in this Article, and shall be subject to and under the direct supervision of the Secretary of Transportation. This shall be treated as a Type I transfer under G.S. 143A-6.

(d) Board of Transportation Members. – No more than two members of the North Carolina Board of Transportation may serve as members of the Authority Board."

PART XXII. DEPARTMENT OF TRANSPORTATION

SECTION 22.1. G.S. 20-7 (i1) is amended as follows:

"(i1) Restoration Fee. – Any person whose driver’s license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(2), shall pay a restoration fee of fifty dollars ($50.00). A person whose driver’s license has been revoked under G.S. 20-17(2) shall pay a restoration fee of seventy-five dollars ($75.00) until the end of the fiscal year in which the cumulative total amount of fees deposited under this subsection in the General Fund exceeds ten million dollars ($10,000,000), and shall pay a restoration fee of fifty dollars ($50.00) thereafter. The fee shall be paid to the Division prior to the issuance to such person of a new driver’s license or the restoration of the driver’s license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The fifty-dollar ($50.00) fee, and the first fifty dollars ($50.00) of the seventy-five dollar ($75.00) fee, shall be deposited in the Highway Fund. The remaining twenty-five dollars ($25.00) of the seventy-five dollar ($75.00) fee shall be deposited in the General Fund of the State. The Office of State Budget and Management shall certify to the Department of Transportation and the General Assembly when the cumulative total amount of fees deposited in the General Fund under this subsection exceeds ten million dollars ($10,000,000), and shall annually report to the General Assembly the amount of fees deposited in the General Fund under this subsection.

It is the intent of the General Assembly to annually appropriate the funds deposited in the General Fund under this subsection to the Board of Governors of The University of North Carolina to be used for the Center for Alcohol Studies Endowment at The University of North Carolina at Chapel Hill, but not to exceed this cumulative total of ten million dollars ($10,000,000)."
CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 22.2. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2011-2012 $1,736.5 million
For Fiscal Year 2012-2013 $1,835.2 million
For Fiscal Year 2013-2014 $1,945.3 million
For Fiscal Year 2014-2015 $2,008.7 million

SECTION 22.3. The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2011-2012 $ 950.4 million
For Fiscal Year 2012-2013 $1,006.9 million
For Fiscal Year 2013-2014 $1,066.4 million
For Fiscal Year 2014-2015 $1,108.3 million

PART XXIII. SALARIES AND BENEFITS

BONUS LEAVE IN LIEU OF LONGEVITY PAYMENTS

SECTION 23.1. For the 2009-2011 fiscal biennium, State employees eligible for longevity pay each year shall receive bonus leave in place of longevity pay. Bonus leave shall be awarded on the following schedule, which represents the working hours' equivalent of the longevity rate for each of the longevity schedules:

For those with more than 10 years of service, but less than 15: 32 hours
For those with 15 years or more, but less than 20: 48 hours
For those with 20 years or more, but less than 25: 68 hours
For those with 25 years or more: 94 hours

For those teachers and State employees with 26 years or more, basis for the calculation for retirement pay shall be based upon their salary plus the amount of longevity that would have been a part of their salary computation during the 2009-2011 fiscal biennium. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126, Section 30.12B(a) of S.L. 2003-284, and Section 29.14A of S.L. 2005-276 and shall remain available until used, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. This section includes employees eligible for legislative and judicial longevity.

GOVERNOR AND COUNCIL OF STATE

SECTION 23.2.(a) Effective July 1, 2009, G.S. 147-11(a) is rewritten to read:

"(a) The salary of the Governor shall remain one hundred thirty-nine thousand five hundred ninety dollars ($139,590) annually, payable monthly."

SECTION 23.2.(b) Effective July 1, 2009, the annual salaries for the members of the Council of State, payable monthly, for the 2009-2010 and 2010-2011 fiscal years shall remain:

<table>
<thead>
<tr>
<th>Council of State</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lieutenant Governor</td>
<td>$123,198</td>
</tr>
<tr>
<td>Attorney General</td>
<td>123,198</td>
</tr>
</tbody>
</table>
### NONELECTED DEPARTMENT HEAD/SALARIES

**SECTION 23.3.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2009-2010 and 2010-2011 fiscal years shall remain:

<table>
<thead>
<tr>
<th>Nonelected Department Heads</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of Administration</td>
<td>$ 120,363</td>
</tr>
<tr>
<td>Secretary of Correction</td>
<td></td>
</tr>
<tr>
<td>Secretary of Crime Control and Public Safety</td>
<td>120,363</td>
</tr>
<tr>
<td>Secretary of Cultural Resources</td>
<td>120,363</td>
</tr>
<tr>
<td>Secretary of Commerce</td>
<td></td>
</tr>
<tr>
<td>Secretary of Commerce</td>
<td></td>
</tr>
<tr>
<td>Secretary of Environment, Health, and Natural Resources</td>
<td>120,363</td>
</tr>
<tr>
<td>Secretary of Human Resources</td>
<td>120,363</td>
</tr>
<tr>
<td>Secretary of Revenue</td>
<td></td>
</tr>
<tr>
<td>Secretary of Transportation</td>
<td>120,363</td>
</tr>
</tbody>
</table>

### CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARIES

**SECTION 23.4.** The annual salaries, payable monthly, for the 2009-2010 and 2010-2011 fiscal years for the following executive branch officials shall remain:

<table>
<thead>
<tr>
<th>Executive Branch Officials</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairman, Alcoholic Beverage Control Commission</td>
<td>$ 109,553</td>
</tr>
<tr>
<td>State Controller</td>
<td>153,319</td>
</tr>
<tr>
<td>Commissioner of Motor Vehicles</td>
<td>109,553</td>
</tr>
<tr>
<td>Commissioner of Banks</td>
<td>123,198</td>
</tr>
<tr>
<td>State Personnel Director</td>
<td>120,363</td>
</tr>
<tr>
<td>Chairman, Parole Commission</td>
<td>100,035</td>
</tr>
<tr>
<td>Members of the Parole Commission</td>
<td>46,178</td>
</tr>
<tr>
<td>Chairman, Utilities Commission</td>
<td>137,203</td>
</tr>
<tr>
<td>Members of the Utilities Commission</td>
<td>123,198</td>
</tr>
<tr>
<td>Executive Director, Agency for Public Telecommunications</td>
<td>92,356</td>
</tr>
<tr>
<td>Director, Museum of Art</td>
<td>112,256</td>
</tr>
<tr>
<td>Executive Director, North Carolina Agricultural Finance Authority</td>
<td>106,635</td>
</tr>
<tr>
<td>State Chief Information Officer</td>
<td>153,227</td>
</tr>
</tbody>
</table>

### JUDICIAL BRANCH OFFICIALS/SALARIES

**SECTION 23.5.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2009-2010 and 2010-2011 fiscal years shall remain:

<table>
<thead>
<tr>
<th>Judicial Branch Officials</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Justice, Supreme Court</td>
<td>$ 140,932</td>
</tr>
<tr>
<td>Associate Justice, Supreme Court</td>
<td>137,249</td>
</tr>
<tr>
<td>Chief Judge, Court of Appeals</td>
<td>135,061</td>
</tr>
</tbody>
</table>
General Assembly of North Carolina  
Session 2009

1 Judge, Court of Appeals  
2 Judge, Senior Regular Resident Superior Court  
3 Judge, Superior Court  
4 Chief Judge, District Court  
5 Judge, District Court  
6 District Attorney  
7 Administrative Officer of the Courts  
8 Assistant Administrative Officer of the Courts  
9 Public Defender  
10 Director of Indigent Defense Services  
11  
12 SECTION 23.5.(b) The district attorney or public defender of a judicial district,  
13 with the approval of the Administrative Officer of the Courts or the Commission on Indigent  
14 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant  
15 public defenders, respectively, in that district such that the average salaries of assistant district  
16 attorneys or assistant public defenders in that district do not exceed sixty-nine thousand  
17 forty-seven dollars ($69,047), and the minimum salary of any assistant district attorney or  
18 assistant public defender is at least thirty-six thousand eight-two dollars ($36,082) effective  
19 July 1, 2009.

12 SECTION 23.5.(b1) The district attorney or public defender of a judicial district,  
13 with the approval of the Administrative Officer of the Courts or the Commission on Indigent  
14 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant  
15 public defenders, respectively, in that district such that the average salaries of assistant district  
16 attorneys or assistant public defenders in that district do not exceed seventy thousand nine  
17 hundred forty-six dollars ($70,946), and the minimum salary of any assistant district attorney or  
18 assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars  
19 ($37,182), effective July 1, 2009.

12 SECTION 23.5.(c) Effective July 1, 2009, the annual salaries of permanent,  
13 full-time employees of the Judicial Department whose salaries are not itemized in this act shall  
14 be increased by zero percent (0%).

12 SECTION 23.5.(d) Effective July 1, 2009, the annual salaries of permanent,  
13 part-time employees of the Judicial Department whose salaries are not itemized in this act shall  
14 be increased by zero percent (0%).

12 SECTION 23.5.(e) Effective July 1, 2009, G.S. 7A-498.6(a) is rewritten to read:
12 "(a) The Director of Indigent Defense Services shall be appointed by the Commission  
13 for a term of four years. The salary of the Director shall be set by the General Assembly in the  
14 Current Operations Act after consultation with the Commission. The Director may be removed  
15 during this term in the discretion of the Commission by a vote of two-thirds of all of the  
16 Commission members. The Director shall be an attorney licensed and eligible to practice in the  
17 courts of this State at the time of appointment and at all times during service as the Director."

12 SECTION 23.5.(f) Effective July 1, 2009, G.S. 7A-498.6 is amended by adding a  
12 new subsection to read:
12 "(c) In lieu of merit and other increment raises paid to regular State employees, the  
13 Director of Indigent Defense Services shall receive as longevity pay an amount equal to four  
14 and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations  
15 Appropriations Act payable monthly after five years of service, nine and six-tenths (9.6%) after  
16 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen  
17 and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after  
18 25 years of service. "Service" means service as Director of Indigent Defense Services, a public  
19 defender, appellate defender, assistant public or appellate defender, district attorney, assistant  
20 district attorney, justice, or judge of the General Court of Justice, or clerk of superior court."

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SUSPEND STEP INCREASES FOR MEMBERS OF THE STATE HIGHWAY PATROL

SECTION 23.7. Notwithstanding G.S. 20-187.3 for the 2009-2010 fiscal year only, the annual step increases for the salaries of members of the State Highway Patrol shall be suspended.

SUSPEND STEP INCREASES FOR ASSISTANT CLERKS AND DEPUTY CLERKS

SECTION 23.8. Notwithstanding G.S. 7A-102(c) for the 2009-2010 fiscal year only, the step increases for the salaries of Assistant Clerks and Deputy Clerks shall be suspended.

SUSPEND STEP INCREASES FOR MAGISTRATES

SECTION 23.9. Notwithstanding G.S. 7A-171.1(a) and G.S. 7A-171.1(a1) for the 2009-2010 fiscal year only, the step increases for the salaries of Magistrates shall be suspended.

LEGISLATIVE EMPLOYEES

SECTION 23.14. The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2009-2010 by zero percent (0%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/SALARIES

SECTION 23.15. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of zero percent (0%), commencing July 1, 2009, for all permanent full-time community college institutional personnel supported by State funds.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARIES

SECTION 23.16.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, to provide an annual salary increase of zero percent (0%), commencing July 1, 2009, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA).

SECTION 23.16.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2009-2010 and 2010-2011, to provide an average annual salary increase of zero percent (0%), commencing July 1, 2009, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA).

MOST STATE EMPLOYEES

SECTION 23.17.(a) The salaries in effect June 30, 2009, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 2009, unless otherwise provided by this act, by zero percent (0%).

SECTION 23.17.(b) Except as otherwise provided in this act, the fiscal year 2009-2010 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and
set by the General Assembly shall be increased by zero percent (0%), commencing July 1, 2009.

ALL STATE-SUPPORTED PERSONNEL

SECTION 23.18.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 23.18.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

SECTION 23.18.(c) The salary increases provided in this act are to be effective July 1, 2009, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2009.

Payroll checks issued to employees after July 1, 2009, which represent payment of services provided prior to July 1, 2009, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

SECTION 23.18.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2009-2010 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 23.18.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

TEACHER SALARY SCHEDULES

SECTION 23.19.(a) Effective for the 2009-2010 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) 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 23.19.(b) The following monthly salary schedules shall apply for the 2009-2010 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 32 steps with each step corresponding to one year of teaching experience.

### 2009-2010 Monthly Salary Schedule

<table>
<thead>
<tr>
<th>&quot;A&quot; Teachers</th>
<th>&quot;A&quot; Teachers</th>
<th>NBPTS Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years of Experience</td>
<td>$3,043</td>
<td>N/A</td>
</tr>
<tr>
<td>0</td>
<td>$3,085</td>
<td>N/A</td>
</tr>
<tr>
<td>1</td>
<td>$3,129</td>
<td>N/A</td>
</tr>
<tr>
<td>2</td>
<td>$3,264</td>
<td>$3,656</td>
</tr>
<tr>
<td>3</td>
<td>$3,404</td>
<td>$3,812</td>
</tr>
<tr>
<td>4</td>
<td>$3,538</td>
<td>$3,963</td>
</tr>
</tbody>
</table>
### 2009-2010 Monthly Salary Schedule

#### "M" Teachers

<table>
<thead>
<tr>
<th>Years of Experience</th>
<th>&quot;M&quot; Teachers</th>
<th>NBPTS Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>$3,347</td>
<td>N/A</td>
</tr>
<tr>
<td>1</td>
<td>$3,394</td>
<td>N/A</td>
</tr>
<tr>
<td>2</td>
<td>$3,442</td>
<td>N/A</td>
</tr>
<tr>
<td>3</td>
<td>$3,590</td>
<td>$4,021</td>
</tr>
<tr>
<td>4</td>
<td>$3,744</td>
<td>$4,193</td>
</tr>
<tr>
<td>5</td>
<td>$3,892</td>
<td>$4,359</td>
</tr>
<tr>
<td>6</td>
<td>$4,034</td>
<td>$4,518</td>
</tr>
<tr>
<td>7</td>
<td>$4,148</td>
<td>$4,646</td>
</tr>
<tr>
<td>8</td>
<td>$4,201</td>
<td>$4,705</td>
</tr>
<tr>
<td>9</td>
<td>$4,255</td>
<td>$4,766</td>
</tr>
<tr>
<td>10</td>
<td>$4,310</td>
<td>$4,827</td>
</tr>
<tr>
<td>11</td>
<td>$4,364</td>
<td>$4,888</td>
</tr>
<tr>
<td>12</td>
<td>$4,420</td>
<td>$4,950</td>
</tr>
<tr>
<td>13</td>
<td>$4,476</td>
<td>$5,013</td>
</tr>
<tr>
<td>14</td>
<td>$4,534</td>
<td>$5,078</td>
</tr>
<tr>
<td>15</td>
<td>$4,594</td>
<td>$5,145</td>
</tr>
<tr>
<td>16</td>
<td>$4,654</td>
<td>$5,212</td>
</tr>
<tr>
<td>17</td>
<td>$4,715</td>
<td>$5,281</td>
</tr>
<tr>
<td>18</td>
<td>$4,780</td>
<td>$5,354</td>
</tr>
<tr>
<td>19</td>
<td>$4,843</td>
<td>$5,424</td>
</tr>
<tr>
<td>20</td>
<td>$4,907</td>
<td>$5,496</td>
</tr>
</tbody>
</table>
SECTION 23.19.(c)  Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 23.19.(d)  Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 23.19.(e)  The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

SECTION 23.19.(f)  Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

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

SECTION 23.19.(g)  Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.
SECTION 23.19.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 23.20.(a) Effective for the 2009-2010 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 23.20.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2009-2010 fiscal year, commencing July 1, 2009, is as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Assistant Principal</th>
<th>Prin I (0-10)</th>
<th>Prin II (11-21)</th>
<th>Prin III (22-32)</th>
<th>Prin IV (33-43)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-2010 Principal and Assistant Principal Salary Schedules</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17 0-4</td>
<td>$3,781</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18 5</td>
<td>$3,931</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19 6</td>
<td>$4,074</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20 7</td>
<td>$4,189</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21 8</td>
<td>$4,243</td>
<td>$4,243</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>22 9</td>
<td>$4,298</td>
<td>$4,298</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23 10</td>
<td>$4,353</td>
<td>$4,353</td>
<td>$4,408</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24 11</td>
<td>$4,408</td>
<td>$4,408</td>
<td>$4,464</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 12</td>
<td>$4,464</td>
<td>$4,464</td>
<td>$4,521</td>
<td>$4,579</td>
<td></td>
</tr>
<tr>
<td>26 13</td>
<td>$4,521</td>
<td>$4,521</td>
<td>$4,579</td>
<td>$4,640</td>
<td>$4,701</td>
</tr>
<tr>
<td>27 14</td>
<td>$4,579</td>
<td>$4,579</td>
<td>$4,640</td>
<td>$4,701</td>
<td>$4,762</td>
</tr>
<tr>
<td>28 15</td>
<td>$4,640</td>
<td>$4,640</td>
<td>$4,701</td>
<td>$4,762</td>
<td>$4,828</td>
</tr>
<tr>
<td>29 16</td>
<td>$4,701</td>
<td>$4,701</td>
<td>$4,762</td>
<td>$4,828</td>
<td>$4,891</td>
</tr>
<tr>
<td>30 17</td>
<td>$4,762</td>
<td>$4,762</td>
<td>$4,828</td>
<td>$4,891</td>
<td>$4,956</td>
</tr>
<tr>
<td>31 18</td>
<td>$4,828</td>
<td>$4,828</td>
<td>$4,891</td>
<td>$4,956</td>
<td>$5,025</td>
</tr>
<tr>
<td>32 19</td>
<td>$4,891</td>
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### 2009-2010 Principal and Assistant Principal Salary Schedules

<table>
<thead>
<tr>
<th>Years of Exp</th>
<th>Classifications</th>
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<tbody>
<tr>
<td></td>
<td>Prin V (44-54)</td>
</tr>
<tr>
<td></td>
<td>Prin VI (55-65)</td>
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<tr>
<td></td>
<td>Prin VII (66-100)</td>
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<td></td>
<td>Prin VIII (101+)</td>
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<tr>
<td>0-14</td>
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<td>$4,891</td>
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</tr>
<tr>
<td>41</td>
<td>$8,176 $8,340</td>
</tr>
</tbody>
</table>

**SECTION 23.20.(c)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Number of Teachers</th>
<th>Supervised</th>
</tr>
</thead>
</table>
| Fewer than 11 Teachers | Principal I
| 11-21 Teachers | Principal II
| 22-32 Teachers | Principal III
| 33-43 Teachers | Principal IV
| 44-54 Teachers | Principal V
| 55-65 Teachers | Principal VI
| 66-100 Teachers | Principal VII
| More than 100 Teachers | Principal VIII |
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 23.20.(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 23.20.(e)** Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

**SECTION 23.20.(f)** Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

**SECTION 23.20.(g)** If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

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

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

**SECTION 23.20.(h)** Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

**SECTION 23.20.(i)** During the 2009-2010 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

**CENTRAL OFFICE SALARIES**

**SECTION 23.21.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2009-2010 fiscal year, beginning July 1, 2009.
The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

**SECTION 23.21.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2009-2010 fiscal year, beginning July 1, 2009.

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superintendent I</td>
<td>$4,720</td>
<td>$8,843</td>
</tr>
<tr>
<td>Superintendent II</td>
<td>$5,011</td>
<td>$9,377</td>
</tr>
<tr>
<td>Superintendent III</td>
<td>$5,316</td>
<td>$9,948</td>
</tr>
<tr>
<td>Superintendent IV</td>
<td>$5,642</td>
<td>$10,552</td>
</tr>
<tr>
<td>Superintendent V</td>
<td>$5,988</td>
<td>$11,196</td>
</tr>
</tbody>
</table>

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

**SECTION 23.21.(c)** Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

**SECTION 23.21.(d)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

**SECTION 23.21.(e)** The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

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

**SECTION 23.22.** Effective July 1, 2009, any permanent personnel employed on July 1, 2009, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%).

Effective July 1, 2009, any permanent certified personnel employed on July 1, 2009, and paid on the teacher salary schedule with 31+ years of experience shall receive a onetime bonus equivalent to one and eight-tenths percent (1.8%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.
FREEZE LONGEVITY PAYMENTS/HOLD HARMLESS EMPLOYEES WHO RETIRE

SECTION 23.23. Teacher and State employee longevity payments shall be frozen for fiscal years 2009-2010 and 2010-2011. Teachers' and State employees' final retirement calculations shall be held harmless from this longevity reduction. For those employees with 26 years or more of service, basis for the calculation of retirement pay shall be based upon their salary plus the amount of longevity that would have been a part of their salary computation during the 2009-2011 fiscal biennium.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 23.24.(a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

SECTION 23.24.(b) Effective July 1, 2009, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2009-2010 fiscal year are (i) eight and fifty-four hundredths percent (8.54%) – Teachers and State Employees; (ii) thirteen and fifty-four hundredths percent (13.54%) – State Law Enforcement Officers; (iii) eleven and eighty-six hundredths percent (11.86%) – University Employees' Optional Retirement System; (iv) eleven and eighty-six hundredths percent (11.86%) – Community College Optional Retirement Program; (v) seventeen and seventy-one hundredths percent (17.71%) – Consolidated Judicial Retirement System; and (vi) four and fifty hundredths percent (4.50%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and fifty hundredths percent (4.50%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 23.24.(c) Effective July 1, 2010, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal year are (i) eight and fifty-four hundredths percent (8.54%) – Teachers and State Employees; (ii) thirteen and fifty-four hundredths percent (13.54%) – State Law Enforcement Officers; (iii) eleven and eighty-six hundredths percent (11.86%) – University Employees' Optional Retirement System; (iv) eleven and eighty-six hundredths percent (11.86%) – Community College Optional Retirement Program; (v) seventeen and seventy-one hundredths percent (17.71%) – Consolidated Judicial Retirement System; and (vi) four and fifty hundredths percent (4.50%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and fifty hundredths percent (4.50%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement System includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.
Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

Notwithstanding G.S. 143C-5-2, there is appropriated from the General Fund to the Reserve for State Health Plan in the Office of State Budget and Management the sum of one hundred twenty-five million dollars ($125,000,000) for the 2009-2010 fiscal year and the sum of two hundred twenty-eight million dollars ($228,000,000) for the 2010-2011 fiscal year. These funds shall be used to cover health care and administrative costs to the Plan in the 2009-2011 fiscal biennium.

Notwithstanding G.S. 143C-5-2, there is appropriated from the Highway Fund to the Reserve for State Health Plan in the Office of State Budget and Management the sum of five million two hundred thousand dollars ($5,200,000) for the 2009-2010 fiscal year and the sum of ten million six hundred thousand dollars ($10,600,000) for the 2010-2011 fiscal year. These funds shall be used to cover health care and administrative costs to the Plan in the 2009-2011 fiscal biennium.

SECTION 23.24.(f) All other agency funds required to fund the premium increase enacted in this act, other than funds appropriated in subsections (d) and (e) of this section, are appropriated for the 2009-2011 fiscal biennium.

SECTION 23.24.(g) Effective July 1, 2009, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2009-2010 fiscal year to the State Health Plan for Teachers and State Employees are: (i) Medicare-eligible employees and retirees – three thousand three hundred ninety-nine dollars ($3,399); (ii) non-Medicare-eligible employees and retirees – four thousand four hundred sixty-five dollars ($4,465).

SECTION 23.24.(g) Effective July 1, 2010, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2010-2011 fiscal year to the State Health Plan for Teachers and State Employees are: (i) Medicare-eligible employees and retirees – three thousand six hundred fifty-one dollars ($3,651) and (ii) non-Medicare-eligible employees and retirees – four thousand seven hundred ninety-five dollars ($4,795).

BUDGET HEALTH CARE PREMIUMS AT ACTUAL COSTS

SECTION 23.25. Funds for employer-paid health care premiums shall be budgeted at actual costs, since some State employees choose not to participate in the State Health Plan for Teachers and State Employees. Budgeting employer health care premiums at actual costs shall not affect any employee who is covered by the Plan.

PART XXIV. REVENUE LAW CHANGES

SMALL BUSINESS TAX RELIEF

SECTION 24.1.(a) G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.
(a) Tax. – A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

<table>
<thead>
<tr>
<th>Income Years</th>
<th>Beginning Tax</th>
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</thead>
<tbody>
<tr>
<td>In 1997</td>
<td>7.5%</td>
</tr>
<tr>
<td>In 1998</td>
<td>7.25%</td>
</tr>
</tbody>
</table>
In 1999 7%  
After 1999 6.9%

(b) Exemption. – Before computing the tax in subsection (a) of this section, a C
Corporation may subtract from State net income the applicable exemption amount. If the
corporation is not required to apportion income to this State, the applicable exemption amount
is the amount provided in the table below based on the corporation's State net income. If the
corporation is required to apportion income to this State, the applicable exemption amount is
the product of the corporation's apportionment fraction determined under G.S. 105-130.4(i)
multiplied by the amount provided in the table below based on the corporation's State net
income.

<table>
<thead>
<tr>
<th>State Net Income</th>
<th>Exemption Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100,000 or less</td>
<td>$25,000</td>
</tr>
<tr>
<td>Over $100,000 through $200,000</td>
<td>$12,500</td>
</tr>
<tr>
<td>Over $200,000</td>
<td>0</td>
</tr>
</tbody>
</table>

SECTION 24.1.(b) This section is effective for taxable years beginning on or after
January 1, 2010.

CIGARETTE INCREASE ($1.00 INCREASE)

SECTION 24.2.(a) G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. Tax on cigarettes.

A tax is levied on the sale or possession for sale in this State, by a distributor, of all
cigarettes at the rate of one and three-fourths cents (1.75¢) six and three-fourths cents (6.75¢)
per individual cigarette."

SECTION 24.2.(b) This section becomes effective September 1, 2009.

FOUNDER'S CREDIT

SECTION 24.3.(a) G.S. 105-130.5(b) is amended by adding a new subdivision to
read:

"(b) The following deductions from federal taxable income shall be made in determining
State net income:

…

(23) The amount of any exclusion of gain for qualified businesses allowed under
Part 5 of this Article, to the extent included in federal taxable income, less
the amount of the credits recaptured pursuant to G.S. 105-163.021; provided
however, that a taxpayer is not required to claim this exclusion."

SECTION 24.3.(b) G.S. 105-134.6(b) is amended by adding a new subdivision to
read:

"(b) Deductions. – The following deductions from taxable income shall be made in
calculating North Carolina taxable income, to the extent each item is included in taxable
income:

…

(19) The amount of the exclusion of gain for qualified businesses allowed under
Part 5 of this Article, less the amount of the credits recaptured pursuant to
G.S. 105-163.021; provided however, that a taxpayer is not required to claim
this exclusion."

SECTION 24.3.(c) Part 5 of Article 4 of Chapter 105 of the General Statutes is
amended by adding the following sections:

"§ 105-163.020. Exclusion of gain allowed.

(a) Election. – A taxpayer may elect to exclude from the taxpayer's income taxable
under this Article any gain or other taxable income recognized for federal income tax purposes
from the sale or exchange of qualified securities."
(b) Pass-Through Entity. – Except as provided in subsection (c) of this section, a taxpayer that is an owner of a pass-through entity may exclude from the taxpayer's income taxable under this Article an amount equal to the taxpayer's allocated share of the exclusion for which the pass-through entity is eligible under subsection (a) of this section.

(c) Qualified Grantee Pass-Through Entity. – If a taxpayer is an owner of a pass-through entity that was a qualified grantee business at the time of the taxpayer's investment in the pass-through entity, the taxpayer may exclude from the taxpayer's income taxable under this Article an amount equal to the gain or other taxable income recognized as a result of the taxpayer's ownership in the pass-through entity, multiplied by a fraction, the numerator of which is the total amount invested by the pass-through entity in qualified businesses and the denominator of which is the total amount invested by the pass-through entity. For purposes of this subsection, the amounts invested by a pass-through entity shall be the amounts invested immediately before the pass-through entity's sale or exchange producing the gain or taxable income excluded under this subsection.

"§ 105-163.021. Recapture of credit.

If a taxpayer claims an exclusion of gain from income pursuant to G.S. 105-163.020, the income tax of the taxpayer for the tax year for which the exclusion is claimed shall be increased by the amount of all credits previously claimed by the taxpayer pursuant to G.S. 105-163.011 with respect to qualified securities that (i) have been sold or exchanged and (ii) the gain from which has been excluded pursuant to G.S. 105-163.020.

"§ 105-163.022. Qualified securities.

(a) Qualified Security. – Except as otherwise provided in this section, any equity security or subordinated debt instrument issued by a qualified business is a qualified security if it satisfies all of the following conditions:

(1) It is originally issued by the business on or after January 1, 2010.

(2) As of the date of issuance, the issuing business is a qualified business.

(3) The security or instrument is acquired by the taxpayer at its original issue in exchange for any tangible or intangible property or benefit to the business, including cash, promissory notes, services performed, contracts for services to be performed, or other equity securities of the business.

(4) It is held by the taxpayer for a continuous period of more than one year.

(5) No broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(6) If the security or instrument was purchased by a pass-through entity, the entity met the requirements of G.S. 105-163.011(b1) at the time of purchase.

(b) Registration. – Securities of a qualified business acquired before the effective date of its registration are not qualified securities. Revocation of the registration of a qualified business pursuant to G.S. 105-163.010A does not affect the exclusion of gain from qualified securities acquired while the registration was in effect if all conditions for registration are satisfied.

(c) Effect of Redemptions and Other Distributions. – An equity security or subordinated debt instrument is not a qualified security to the extent the taxpayer purchased it with the proceeds of a redemption, dividend, or distribution made by the business that issued the security or instrument. For the purpose of this subsection, when a business makes a redemption, dividend, or distribution during the four-year period beginning two years before the issuance of securities or instruments to a taxpayer, the taxpayer is considered to have used the proceeds of the redemption, dividend, or distribution toward the purchase of the securities or instruments. A redemption, dividend, or distribution occurs when the business issuing the security or instrument does either of the following:
(1) Purchases, directly or indirectly, any of its outstanding equity securities or subordinated debt, other than qualified securities, from the taxpayer or a related person.

(2) Declares a dividend or makes a distribution with respect to any of its outstanding equity securities or subordinated debt, other than qualified securities, to the taxpayer or a related person. This subdivision does not apply, however, to a distribution in connection with one of the following:
   a. The reimbursement to the taxpayer of the reasonable costs of forming, syndicating, managing, and operating the business.
   b. An increase in the taxpayer's taxes, penalties, or interest to the extent the increase is caused by the allocation to the taxpayer of income of the business.

The repayment of principal on subordinated debt is a purchase of the debt except to the extent the repayment is repayment of principal due on the subordinated debt at its maturity pursuant to the terms of the subordinated debt instrument. If a transaction is treated under section 304(a) of the Code as a distribution in redemption of the equity securities of a business, that business has, for the purpose of this subsection, purchased an amount of its equity securities equal to the amount treated as such a distribution under section 304(a) of the Code.

(d) Exception for Certain Transactions. – The following transactions are not treated as a redemption or distribution for the purposes of subsection (c) of this section:
   (1) Any deemed liquidation of a business pursuant to section 708(b)(1)(A) of the Code by reason of the business becoming a disregarded entity for federal tax purposes, to the extent there is no actual distribution of money or other property to the taxpayer of a related person.
   (2) Any deemed distribution or redemption by reason of a technical termination of a business pursuant to section 708(b)(1)(B) of the Code to the extent there is no actual distribution of money or other property to the taxpayer or a related person.

(e) Conversion of Other Securities. – Any equity security or subordinated debt instrument issued by a business and acquired by the taxpayer solely through the conversion of another equity security or subordinated debt instrument that was issued by the business and was a qualified security in the hands of the taxpayer is considered, for the purpose of this section, a qualified security in the hands of the taxpayer and acquired by the taxpayer on the date the taxpayer acquired the converted qualified security.

(f) Transfers. – In the case of a transfer by gift, by death, or from a pass-through entity to one of its owners, the transferee is considered, for the purpose of this section, to have acquired the qualified security in the same manner as the transferor and to have held it during any continuous period immediately preceding the transfer during which it was held or treated as held by the transferor.

In the case of a transaction described in section 351 or 721 of the Code or a reorganization described in section 368 of the Code, if qualified securities are exchanged for other securities, the other securities are considered, for the purpose of this section, qualified securities acquired on the date the exchanged qualified securities were acquired. In the case of a transaction described in section 351 or 721 of the Code, the newly acquired securities are considered qualified securities, however, only if, immediately after the transaction, the business issuing the securities owns, directly or indirectly, securities representing control, within the meaning of section 368(c) of the Code, of the business whose securities were exchanged.
taxpayer contributes property to or exchanges property with a qualified business, the following rules apply:

1. **Qualified securities exchanged for property.** Except as otherwise provided in subdivision (3) of this subsection, a taxpayer who transfers property to a business in exchange for qualified securities in the business must, for purposes of determining North Carolina taxable income, recognize gain equal to the amount by which the fair market value of the property exceeded the taxpayer's basis in the property on the date the property was exchanged for the qualified securities. This gain must be recognized for the years for which the taxpayer claims an exclusion of gain under this Part with respect to the disposition of qualified securities received in exchange for the property.

2. **Contributions to capital.** Except as otherwise provided in subdivision (3) of this subsection, if the adjusted basis of a qualified security is adjusted due to a contribution to capital after the date the qualified security was issued originally, for purposes of determining North Carolina taxable income, the taxpayer must recognize gain equal to the amount by which the fair market value of the contributed property exceeded the taxpayer's basis in the property on the date the property was contributed. This gain must be recognized for the years for which the taxpayer claims an exclusion of gain under this Part with respect to the disposition of the qualified securities.

3. **Disposition of contributed property.** If a qualified business disposes of property contributed to it, the disposition occurs before the taxpayer who contributed the property claims an exclusion of gain pursuant to this Part with respect to qualified securities affected by the contribution, and the taxpayer recognizes gain from the disposition, then for purposes of subdivisions (1) and (2) of this subsection, the taxpayer's basis in the contributed property is increased by any gain the taxpayer recognized from the disposition.

(b) **Transactions That Substantially Reduce the Risk of Loss.** If a taxpayer has entered into any transaction that substantially reduces the risk of loss from holding the qualified securities, there is no exclusion of gain under this Part from the sale or exchange of the qualified securities unless the taxpayer entered into the transaction on or after January 1, 2010, and elects to recognize gain as if the qualified securities were sold at fair market value on the date the taxpayer first entered into that transaction. The following are examples of a transaction that substantially reduces the risk of loss from holding the qualified securities:

1. The taxpayer or a related person has made a short sale of substantially identical property.

2. The taxpayer or a related person has acquired an option to sell substantially identical property at a fixed price.

**SECTION 24.3.(d)** This section is effective when it becomes law.

**EARNED INCOME TAX CREDIT**

**SECTION 24.4.(a)** G.S. 105-151.31(a) reads as rewritten:

"(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to five percent (5%) six and one-half percent (6.5%) of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate."
SECTION 24.4.(b) This section is effective for taxable years beginning on or after January 1, 2010.

OTHER TOBACCO PRODUCTS (18% INCREASE)

SECTION 24.5. G.S. 105-113.35 reads as rewritten:

"§ 105-113.35. Tax on tobacco products other than cigarettes; use of proceeds.
(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of ten percent (10%) twenty-eight percent (28%) of the cost price of the products. This tax does not apply to the following:
(1) A tobacco product sold outside the State.
(2) A tobacco product sold to the federal government.
(3) A sample tobacco product distributed without charge.
(b) Primary Liability. – The wholesale dealer or retail dealer who first acquires or otherwise handles tobacco products subject to the tax imposed by this section is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State. A wholesale dealer or retail dealer who is the original consignee of a tobacco product that is made outside the State and is shipped into the State is the first person to handle the tobacco product in this State.
(c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.
(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.
   Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.
If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this section on tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer.
(e) Use. – Of the funds collected pursuant to this section, the Secretary shall deposit an amount equal to three percent (3%) twenty-one percent (21%) of the cost price of the products to the General Fund, and the Secretary shall remit the remainder of the funds to the University Cancer Research Fund established pursuant to G.S. 116-29.1."

WATERSENSE SALES TAX HOLIDAY

SECTION 24.6. G.S. 105-164.13D reads as rewritten:
§ 105-164.13D. Sales and use tax holiday for Energy Star and WaterSense qualified products.

(a) The taxes imposed by this Article do not apply to the Energy Star and WaterSense qualified products listed in this section if sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday. The qualified products are:

1. Clothes washers.
2. Freezers and refrigerators.
3. Central air conditioners and room air conditioners.
5. Ceiling fans.
6. Dehumidifiers.
7. Programmable thermostats.
8. WaterSense labeled toilets.

(b) The exemption allowed by this section does not apply to the following:

1. The sale of a product for use in a trade or business.
2. The rental of a product.

PROFESSIONAL BUSINESS FEES

SECTION 24.7. G.S. 105-41 reads as rewritten:

§ 105-41. Attorneys-at-law and other professionals.

(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars ($50.00) two hundred dollars ($200.00).

1. An attorney-at-law.
2. A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a chiropodist, a dentist, an ophthalmologist, an optician, an optometrist, or another person who practices a professional art of healing.
3. A professional engineer, as defined in G.S. 89C-3.
4. A registered land surveyor, as defined in G.S. 89C-3.
5. An architect.
6. A landscape architect.
7. A photographer, a canvasser for any photographer, or an agent of a photographer in transmitting photographs to be copied, enlarged, or colored.
8. A real estate broker or a real estate salesman, as defined in G.S. 93A-2. A real estate broker or a real estate salesman who is also a real estate appraiser is required to obtain only one license under this section to cover both activities.
9. A real estate appraiser, as defined in G.S. 93E-1-4. A real estate appraiser who is also a real estate broker or a real estate salesman is required to obtain only one license under this section to cover both activities.
10. A person who solicits or negotiates loans on real estate as agent for another for a commission, brokerage, or other compensation.
11. A mortician or embalmer licensed under G.S. 90-210.25.

(b) The following persons are exempt from the tax:

1. A person who is at least 75 years old.
(2) A person practicing the professional art of healing for a fee or reward, if the person is an adherent of an established church or religious organization and confines the healing practice to prayer or spiritual means.

(3) A blind person engaging in a trade or profession as a sole proprietor. A "blind person" means any person who is totally blind or whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or where the widest diameter of visual field subtends an angle no greater than 20 degrees. This exemption shall not extend to any sole proprietor who permits more than one person other than the proprietor to work regularly in connection with the trade or profession for remuneration or recompense of any kind, unless the other person in excess of one so remunerated is a blind person.

(c) Every person engaged in the public practice of accounting as a principal, or as a manager of the business of public accountant, shall pay for such license fifty dollars ($50.00) two hundred dollars ($200.00), and in addition shall pay a license of twelve dollars and fifty cents ($12.50) for each person employed who is engaged in the capacity of supervising or handling the work of auditing, devising or installing systems of accounts."

CAREGIVER TAX CREDIT

SECTION 24.8.(a) Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-151.33. Caregiver tax credit.

(a) Credit. – A taxpayer shall be allowed a credit against the tax imposed by this Part for qualified caregiving expenses in an amount not to exceed ten percent (10%) of the total amount expended for qualified caregiving expenses. In no event shall the amount of the tax credit exceed one hundred fifty dollars ($150.00) or the taxpayer's income tax liability, whichever is less. No taxpayer shall be entitled to such credit with respect to the same qualified caregiving expenses claimed by another taxpayer.

(b) As used in this Code section, the term:

(1) Qualified caregiving expenses' means payments by the taxpayer for home health agency services, personal care services, personal care attendant services, homemaker services, adult day care, respite care, or health care equipment and supplies which equipment and supplies have been determined to be medically necessary by a physician which services, care, or equipment and supplies are:

a. Provided to the qualifying family member; and
b. Purchased or obtained from an organization or individual not related to the taxpayer or the qualifying family member.

(2) 'Qualifying family member’ means the taxpayer or an individual who is related to the taxpayer by blood, marriage, or adoption and who:

a. Is at least 62 years of age; or
b. Has been determined to be disabled by the Social Security Administration.

(c) A taxpayer shall only be authorized to claim and receive the credit under this Code section if the taxpayer's North Carolina taxable net income does not exceed forty thousand dollars ($40,000.00) in the taxable year for which the credit under this Code section is claimed.

(d) In no event shall the amount of the tax credit exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.
Section 24.8(b) This section becomes effective January 1, 2010, and applies to all taxable years beginning on or after that date.

PART XXV. CAPITAL APPROPRIATIONS

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

Section 25.1. The appropriations made by the 2009 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 25.2. There is appropriated from the General Fund for the 2009-2010 fiscal year the following amount for capital improvements:

**Capital Improvements – General Fund 2009-2010**

- Department of Environment and Natural Resources
  - Water Resources Development Projects $17,600,000
- University of North Carolina at Chapel Hill
  - Biomedical Research Imaging Center $10,000,000

**TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND** $27,600,000

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

Section 25.3(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

**Name of Project** 2009-2010

1. AIWW Dredging - 300,000
2. Aquatic Obstruction Removal – Statewide - 300,000
3. Aquatic Plant Control - 200,000
4. B. Everett Jordan Lake Water Supply Storage - 5,000,000
5. Bald Head Island Beach Renourishment - 50,000
6. Beaufort Harbor Maintenance - 738,000
7. Belhaven Harbor Feasibility - 842,000
8. Carolina Beach Renourishment - 350,000
9. Currituck Sound Environmental Restoration - 100,000
10. Croatan Sound Renourishment Fund - 250,000
11. Emerald Isle Boat Launch - 1,000,000
12. John H. Kerr Dam and Reservoir - 400,000
13. Little Fork Creek (Rendezvous State Park) - 200,000
14. Manteo (Shallowbag) Bay Maintenance Dredging - 250,000
15. Morehead City Harbor Maintenance -
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>N.C. International Terminal Feasibility Study</td>
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<td>2</td>
<td>Nags Head Beach Renourishment</td>
<td>2,000,000</td>
</tr>
<tr>
<td>3</td>
<td>Neuse River Basin Restoration</td>
<td>-</td>
</tr>
<tr>
<td>4</td>
<td>Ocean Isle Beach Renourishment</td>
<td>1,211,000</td>
</tr>
<tr>
<td>5</td>
<td>Planning Assistance to Communities</td>
<td>75,000</td>
</tr>
<tr>
<td>6</td>
<td>Princeville Flood Control</td>
<td>100,000</td>
</tr>
<tr>
<td>7</td>
<td>State/Local WRD Grants</td>
<td>1,000,000</td>
</tr>
<tr>
<td>8</td>
<td>Surf City – North Topsail Beach Protection (Pender County)</td>
<td>-</td>
</tr>
<tr>
<td>9</td>
<td>West Onslow Beach (Topsail Beach, Pender County)</td>
<td>75,000</td>
</tr>
<tr>
<td>10</td>
<td>Wilmington Harbor Deepening</td>
<td>1,300,000</td>
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<tr>
<td>11</td>
<td>Wilmington Harbor Maintenance</td>
<td>-</td>
</tr>
<tr>
<td>12</td>
<td>Wilson Bay Restoration (Onslow County)</td>
<td>250,000</td>
</tr>
<tr>
<td>13</td>
<td>Wrightsville Beach Renourishment</td>
<td>2,059,000</td>
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<tr>
<td></td>
<td><strong>TOTALS</strong></td>
<td><strong>$17,600,000</strong></td>
</tr>
</tbody>
</table>

**SECTION 25.3.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2009-2010 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

1. U.S. Army Corps of Engineers project feasibility studies.
2. U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2009-2010.
3. State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2010-2011 fiscal year.

**SECTION 25.3.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

1. All projects listed in this section.
2. The estimated cost of each project.
3. The date that work on each project began or is expected to begin.
4. The date that work on each project was completed or is expected to be completed.
5. The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

**SECTION 25.4.** The appropriations made by the 2009 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method...
of financing a project, the Director shall report that action to the Joint Legislative Commission
on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing
fixed and movable equipment for any project, those funds for equipment shall not be subject to
transfer into construction accounts except as authorized by the Director of the Budget. The
expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2009 General Assembly shall be
completed, including fixed and movable equipment and furnishings, within the limits of the
amounts of the direct or self liquidating appropriations provided, except as otherwise provided
in this act.

BIOMEDICAL RESEARCH IMAGING CENTER

SECTION 25.5.(a) The General Assembly finds that continuing the construction
of the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill
is a vital component of the State's efforts to improve the health and wellness of its citizens. The
General Assembly also finds that the construction of the Center will generate significant
economic benefits to the State and its people, including more than 7,800 jobs and more than
five hundred million dollars ($500,000,000) in total economic impact.

SECTION 25.5.(b) In addition to ten million dollars ($10,000,000) appropriated
herein for FY 2009-2010, it is the intention of the General Assembly to authorize a total of two
hundred twenty-nine million five hundred thousand dollars ($229,500,000) of debt financing in
subsequent years to complete the Biomedical Research Imaging Center. Debt repayment will
be shared, with the General Fund providing seventy percent (70%) of debt service, the
University of North Carolina at Chapel Hill providing fifteen percent (15%), and UNC
Hospitals providing fifteen percent (15%) of debt service. In order to meet the cash flow
requirements for construction of the project, it is anticipated that the following debt issuance
schedule will be required:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amount</th>
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<td>$85,000,000</td>
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<tr>
<td>2011-2012</td>
<td>$55,000,000</td>
</tr>
<tr>
<td>2012-2013</td>
<td>$85,000,000</td>
</tr>
<tr>
<td>2013-2014</td>
<td>$4,500,000</td>
</tr>
</tbody>
</table>

SECTION 25.5.(c) In order to maximize savings in the construction market, the
General Assembly authorizes UNC-Chapel Hill and UNC Health Care to use interim financing
to keep this project on schedule, in an amount not to exceed twenty-five million dollars
($25,000,000), from funds available to the University of North Carolina at Chapel Hill from
gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education
costs, or other funds, or any combination of these funds, but not including funds received for
tuition or appropriated from the General Fund of the State. This financing will be subject to the
approval of the President and the Board of Governors of the University of North Carolina. All
interim debt will be reimbursed to the UNC-Chapel Hill and UNC Health Care from the
proceeds of permanent indebtedness issued by the State pursuant to the schedule of issuance
authorized in this provision and will be accomplished within 60 days of issuance.

BIOMEDICAL RESEARCH IMAGING CENTER INCOME FROM PATENTS

SECTION 25.6. In light of the significant financial support that the State provides
to the Biomedical Research Imaging Center (BRIC), it is fitting for the State to share in any
financial opportunities made possible by the State's support. To this end, the State shall receive
ten percent (10%) of the gross royalties derived from licensing or income from assignment or
sale of any patent resulting from research or other activities conducted at, by or under the
auspices of the BRIC, or developed with the aid of the BRIC's facilities, staff, or funds. This
provision shall supersede any other provision, statute, policy, rule, or regulation regarding
income from patents related to the BRIC.

CAPITAL IMPROVEMENT PROJECTS UTILIZING FEDERAL RECOVERY FUNDS

SECTION 25.7.(a) Notwithstanding the provisions of Article 8 of Chapter 143C of
the General Statutes, the Director of the Budget may authorize the construction of a capital
improvement project not specifically authorized by the General Assembly if such project is to
be funded by the American Recovery and Reinvestment Act of 2009. The Director of the
Budget shall report to the Joint Legislative Commission on Governmental Operations on any
capital project authorization made under this subsection no later than 30 days after making the
authorization.

Prior to authorizing the construction of a capital improvement project with an
estimated cost greater than two million dollars ($2,000,000), the Director shall consult with the
Joint Legislative Commission on Governmental Operations. If the Commission does not hold a
meeting to hear the consultation within 30 days of receiving the submission of the report, the
consultation requirement is satisfied.

SECTION 25.7.(b) Effective Date – This section is effective when it becomes law.

PART XXVI. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 26.1. The provisions of the State Budget Act, Chapter 143C of the
General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
this act by reference.

MOST TEXT APPLIES ONLY TO THE 2009-2011 FISCAL BIENNIAL

SECTION 26.2. Except for statutory changes or other provisions that clearly
indicate an intention to have effects beyond the 2009-2011 fiscal biennium, the textual
provisions of this act apply only to funds appropriated for, and activities occurring during, the
2009-2011 fiscal biennium.

EFFECT OF HEADINGS

SECTION 26.3. The headings to the parts and sections of this act are a
convenience to the reader and are for reference only. The headings do not expand, limit, or
define the text of this act, except for effective dates referring to a part.

SEVERABILITY CLAUSE

SECTION 26.4. If any section or provision of this act is declared unconstitutional
or invalid by the courts, it does not affect the validity of this act as a whole or any part other
than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 26.5. Except as otherwise provided, this act becomes effective July 1,
2009.