

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**SENATE BILL 202
PROPOSED COMMITTEE SUBSTITUTE S202-PCS35286-LExf-15**

Short Title: Appropriations Act of 2009.

(Public)

Sponsors:

Referred to:

February 18, 2009

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

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

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

Current Operations – General Fund	2009-2010	2010-2011
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EDUCATION

Community Colleges System Office	\$ 1,059,888,269	\$ 1,104,442,194
Department of Public Instruction	7,629,717,045	7,773,516,383



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1			
2	University of North Carolina – Board of Governors		
3	Appalachian State University	149,364,470	150,008,736
4	East Carolina University		
5	Academic Affairs	241,853,905	244,133,225
6	Health Affairs	55,190,729	55,027,390
7	Elizabeth City State University	37,906,689	38,291,383
8	Fayetteville State University	60,424,635	60,745,385
9	North Caroline Agricultural and Technical University	103,280,528	103,283,850
10	North Carolina Central University	94,300,645	94,193,246
11	North Carolina School of the Arts	28,632,307	28,786,620
12	North Carolina State University		
13	Academic Affairs	421,258,378	428,566,200
14	Agricultural Extension	61,941,281	60,787,417
15	Agricultural Research	46,237,503	45,963,661
16	University of North Carolina at Asheville	40,024,437	40,158,837
17	University of North Carolina at Chapel Hill		
18	Academic Affairs	315,711,172	318,502,587
19	Health Affairs	224,910,569	228,028,319
20	Area Health Education Centers	52,346,018	52,363,857
21	University of North Carolina at Charlotte	200,230,007	200,765,231
22	University of North Carolina at Greensboro	172,612,251	173,265,711
23	University of North Carolina at Pembroke	61,015,439	61,316,418
24	University of North Carolina at Wilmington	104,921,437	106,343,768
25	Western Carolina University	96,273,475	96,370,613
26	Winston-Salem State University	73,730,343	73,401,502
27	General Administration	43,643,644	43,627,674
28	University Institutional Programs	14,772,089	72,744,268
29	Related Educational Programs	120,250,131	119,595,220
30	UNC Financial Aid Private Colleges	104,888,915	104,922,915
31	North Carolina School of Science and Mathematics	19,304,837	19,362,188
32	UNC Hospitals at Chapel Hill	46,011,882	46,011,882
33	Total University of North Carolina –		
34	Board of Governors	\$ 2,991,037,716	\$ 3,066,568,103

HEALTH AND HUMAN SERVICES

38	Department of Health and Human Services		
39	Division of Central Management and Support	\$ 57,334,182	\$ 59,306,912
40	Division of Aging	35,927,363	38,697,945
41	Division of Blind Services/Deaf/HH	11,354,295	11,279,296
42	Division of Child Development	282,156,867	346,847,558
43	Division of Education Services	38,827,103	33,879,011
44	Division of Health Service Regulation	18,196,075	18,201,413
45	Division of Medical Assistance	2,528,381,854	3,171,953,118
46	Division of Mental Health	784,669,194	787,653,305
47	NC Health Choice	82,928,252	82,828,189
48	Division of Public Health	182,067,661	183,194,026
49	Division of Social Services	212,492,287	223,486,076
50	Division of Vocation Rehabilitation	41,765,979	41,779,037
51	Total Health and Human Services	\$ 4,276,101,112	\$ 4,999,105,886

1			
2	NATURAL AND ECONOMIC RESOURCES		
3			
4	Department of Agriculture and Consumer Services	\$ 61,599,458	\$ 61,185,805
5			
6	Department of Commerce		
7	Commerce	44,395,214	37,178,108
8	Commerce State-Aid	18,804,673	15,304,673
9	NC Biotechnology Center	15,119,010	15,119,010
10	Rural Economic Development Center	24,019,453	24,019,453
11			
12	Department of Environment and Natural Resources	207,284,998	200,464,914
13			
14	Clean Water Management Trust Fund	95,000,000	100,000,000
15			
16	Department of Labor	17,700,104	17,728,165
17			
18	JUSTICE AND PUBLIC SAFETY		
19			
20	Department of Correction	\$ 1,292,633,348	\$ 1,334,385,357
21			
22	Department of Crime Control and Public Safety	31,338,905	30,900,591
23			
24	Judicial Department	470,465,546	471,837,687
25	Judicial Department – Indigent Defense	134,934,064	121,403,270
26			
27	Department of Justice	92,102,712	91,344,576
28			
29	Department of Juvenile Justice and		
30	Delinquency Prevention	147,114,599	143,487,981
31			
32	GENERAL GOVERNMENT		
33			
34	Department of Administration	\$ 69,163,419	\$ 69,106,137
35			
36	Office of Administrative Hearings	3,967,455	3,980,290
37			
38	Department of State Auditor	13,224,512	13,240,784
39			
40	Office of State Controller	23,361,150	23,993,456
41			
42	Department of Cultural Resources		
43	Cultural Resources	70,522,789	71,919,361
44	Roanoke Island Commission	1,961,296	1,961,296
45			
46	State Board of Elections	4,683,822	6,187,615
47			
48	General Assembly	57,661,786	59,371,264
49			
50	Office of the Governor		
51	Office of the Governor	6,113,531	6,119,712

1	Office of State Budget and Management	6,561,015	6,564,463
2	OSBM – Reserve for Special Appropriations	5,023,000	4,273,000
3	Housing Finance Agency	14,608,417	14,608,417
4			
5	Department of Insurance		
6	Insurance	31,644,853	31,707,037
7	Insurance – Volunteer Safety Workers' Compensation	2,000,000	2,000,000
8			
9	Office of Lieutenant Governor	932,179	932,179
10			
11	Department of Revenue	84,920,596	85,013,566
12			
13	Department of Secretary of State	11,364,455	11,438,329
14			
15	Department of State Treasurer		
16	State Treasurer	17,272,124	17,285,912
17	State Treasurer –		
18	Retirement for Fire and Rescue Squad Workers	10,804,671	10,804,671
19			
20	TRANSPORTATION		
21			
22	Department of Transportation	\$ 0	\$ 0
23			
24	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
25			
26	Reserve for Compensation Increases	\$ 65,440,496	\$ 56,765,776
27			
28	Salary Adjustment Fund: 2009-2011 Biennium	0	0
29			
30	Contingency and Emergency Fund	5,000,000	5,000,000
31			
32	Reserve for Teachers' and		
33	State Employees' Retirement Contribution	21,000,000	21,000,000
34			
35	Judicial Retirement System Contributions	1,300,000	1,300,000
36			
37	Reserve for State Health Plan	128,410,208	267,904,114
38			
39	Information Technology Fund	9,361,985	9,361,985
40			
41	Reserve for Job Development Investment Grants (JDIG)	19,000,000	27,400,000
42			
43	Adjust Debt Service	(7,500,000)	7,307,323
44			
45	Statewide Administrative Support	(3,000,000)	(4,000,000)
46			
47	Federal Economic Recovery Management	1,000,000	1,000,000
48			
49	E-Procurement Receipts		(10,000,000)
50			
51	Biomedical Research Imaging Center (BRIC)	0	0

1	Biomedical Research Imaging Center (BRIC)	74,000,000	100,000,000
2	Contingency Reserve		
3			
4	Debt Service		
5	General Debt Service	670,494,697	739,878,445
6	Federal Reimbursement	1,616,380	1,616,380
7			
8	TOTAL CURRENT OPERATIONS –		
9	GENERAL FUND	\$ 20,031,171,062	\$ 21,273,226,011
10			
11	Capital Improvements -General Fund	2009-2010	2010-2011
12			
13	Water Resources Development Projects	\$ 17,600,000	\$ 0
14			
15	TOTAL CAPITAL IMPROVEMENTS –		
16	GENERAL FUND	\$ 17,600,000	\$ 0
17			
18	GENERAL FUND AVAILABILITY STATEMENT		
19	SECTION 2.2.(a) The General Fund availability used in developing the 2009-2011		
20	biennial budget is shown below:		
21		FY 2009-2010	FY 2010-2011
22			
23	Unappropriated Balance Remaining from Previous Year	0	190,568,288
24	Projected Reversions FY 2006-2007	0	0
25	Projected Overcollections FY 2006-2007	0	0
26	Less Earmarkings of Year End Fund Balance		
27	Savings Reserve Account	0	0
28	Repairs and Renovations Reserve Account	0	0
29	Beginning Unreserved Fund Balance	0	190,568,288
30			
31	Revenues Based on Existing Tax Structure	18,030,500,000	19,072,800,000
32			
33	Nontax Revenues		
34	Investment Income	136,400,000	153,800,000
35	Judicial Fees	200,300,000	208,400,000
36	Disproportionate Share	100,000,000	100,000,000
37	Insurance	72,500,000	76,500,000
38	Other Nontax Revenues	195,700,000	201,500,000
39	Tobacco Trust Fund Transfer	0	0
40	Highway Trust Fund/Use Tax Reimbursement Transfer	108,500,000	72,800,000
41	Highway Fund Transfer	17,600,000	17,600,000
42	Subtotal Nontax Revenues	831,000,000	831,300,000
43			
44	Total General Fund Availability	18,861,500,000	20,008,383,971
45			
46	Adjustments to Availability: 2009 Session		
47	Reserve for Tax Adjustments	500,400,000	667,100,000
48	Federal Fiscal Stabilization Funds – Education	580,966,000	580,966,000
49	Federal Fiscal Stabilization Funds – General Purpose	129,261,500	129,261,500
50	IRA Distribution Suspended	(44,000,000)	0
51	Department of Revenue Improved Enforcement	50,000,000	75,000,000

1	Transfer from Disproportionate Share Reserve	24,994,954	0
2	Adjust Transfer from Insurance Regulatory Fund	(2,179,969)	(2,179,969)
3	Adjust Transfer from Treasurer's Office	(885,321)	(885,321)
4	Scrap Tire Disposal Account Funds	3,000,000	0
5	Increase DHHS/HSR Fees	1,122,990	1,122,990
6	Increase SOS Fees	3,632,700	3,632,700
7	Administrative Office of the Courts	32,942,179	38,899,425
8	Reduce Fund Balance – Nurse Educators for Tomorrow	1,000,000	0
9	Inmate Work Release Fund Increase	500,000	500,000
10	Reduce Fund Balance – Telecommunications Relay Trust Fund	5,000,000	0
11	Reduce Fund Balance – Teaching Fellows Trust Fund	4,500,000	0
12	Reduce Fund Balance – DPI Legacy Funds	2,000,000	0
13	Subtotal Adjustments to		
14	 Availability: 2009 Session	1,292,255,033	1,493,417,325
15			
16	Revised General Fund Availability	20,153,755,033	21,501,801,296
17			
18	Less: General Fund Appropriations	(20,048,771,062)	(21,273,033,668)
19			
20	Unappropriated Balance Remaining	\$104,983,971	\$228,767,628

22 **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State
23 Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30,
24 2009. This subsection becomes effective June 30, 2009.

25 **SECTION 2.2.(c)** Notwithstanding 143C-4-2, the State Controller shall not
26 transfer funds to the Savings Reserve Account on June 30, 2009. This subsection becomes
27 effective June 30, 2009.

28 **SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the
29 sum to be transferred under that subdivision for the 2009-2010 fiscal year is one hundred six
30 million (\$106,000,000) and for the 2010-2011 fiscal year is seventy-one million (\$71,000,000).

31 **SECTION 2.2.(e)** Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred
32 under that subdivision for the 2009-2010 fiscal year is two million five hundred thousand
33 dollars (\$2,500,000) and for the 2010-2011 fiscal year is one million eight hundred thousand
34 dollars (\$1,800,000).

35 **SECTION 2.2.(f)** The appropriation made in this act to the Clean Water
36 Management Trust Fund for the 2009-2010 fiscal year is ninety-five million dollars
37 (\$95,000,000). The provisions of G.S. 113A-253.1 do not apply for the 2009-2010 fiscal year.

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

39 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

40
41 **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance
42 and operation of the Department of Transportation and for other purposes as enumerated are
43 made for the fiscal biennium ending June 30, 2011, according to the following schedule:

44		2009-2010	2010-2011
45	Current Operations – Highway Fund		
46	Department of Transportation		
47	Administration	\$ 80,810,522	\$ 81,897,273
48			
49	Division of Highways		
50	Administration	32,938,983	32,993,177
51			

1	Construction	38,910,000	125,110,551
2	Maintenance	909,957,588	791,660,215
3	Planning and Research	4,055,402	4,055,402
4	OSHA Program	355,389	355,389
5			
6	Ferry Operations	30,126,209	29,726,209
7			
8	State Aid		
9	Municipalities	87,071,264	86,200,551
10	Public Transportation	71,595,962	71,631,962
11	Airports	17,349,592	17,291,543
12	Railroads	17,101,153	17,101,153
13			
14	Governor's Highway Safety	351,779	352,325
15	Division of Motor Vehicles	101,732,813	101,747,629
16	Other State Agencies, Reserves,		
17	and Transfers	291,143,334	298,336,621
18			
19	TOTAL	\$ 1,683,500,000	\$1,658,460,000

HIGHWAY FUND AVAILABILITY STATEMENT

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

25	Highway Fund Availability Statement	2009-2010	2010-2011
26			
27	Unappropriated Balance From Previous Year	\$ 0	\$ 0
28	Beginning Credit Balance	0	0
29	Estimated Revenue	1,683,500,000	1,658,460,000
30			
31	Total Highway Fund Availability	\$ 1,683,500,000	\$ 1,658,460,000
32			
33	Unappropriated Balance	\$ 0	\$ 0

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

SECTION 4.1. Appropriations from the State Highway Trust Fund 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:

43	Current Operations – Highway Trust Fund	2009-2010	2010-2011
44	Intrastate System	\$ 352,674,316	\$ 369,455,555
45	Urban Loops	110,759,502	118,440,179
46	Aid to Municipalities	39,893,942	41,549,515
47	Secondary Roads	57,777,091	60,531,355
48	Program Administration	41,092,320	42,373,920
49	Turnpike Authority	64,000,000	99,000,000
50	Transfer to General Fund	108,561,829	72,846,726

GRAND TOTAL CURRENT OPERATIONS**AND EXPANSION****\$ 857,490,000****\$ 884,190,000****HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

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

Total Highway Trust Fund Availability**\$ 857,490,000****\$ 884,190,000****PART V. OTHER APPROPRIATIONS****CIVIL FORFEITURE FUNDS**

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

	FY 2009-2010	FY 2010-2011
School Technology Fund	\$ 18,000,000	\$ 18,000,000
State Public School Fund	138,546,041	120,362,790
Total Appropriation	\$156,546,041	\$138,362,790

SECTION 5.1.(b) 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.

EDUCATION LOTTERY

SECTION 5.2.(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 eight dollars (\$368,070,208) for the 2009-2010 fiscal year.

SECTION 5.2.(b) Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund for the 2009-2010 fiscal year are as follows:

Teachers in Early Grades	99,399,395
Prekindergarten Program	84,635,709
Public School Building Capital Fund	147,228,083
Scholarships for Needy Students	<u>36,807,021</u>
Total Appropriation	\$368,070,208

SECTION 5.2.(c) Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2009-2010 fiscal year or the 2010-2011 fiscal year.

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION

SECTION 5.3.(a) The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2009-2010	FY 2010-2011
Interest Income	\$100,000	\$100,000
IT Fund Balance June 30	\$3,359,419	\$100,000

1			
2	Appropriation from General Fund	\$9,361,985	\$9,361,985
3			
4	Total Funds Available	\$12,821,404	\$9,561,985

5
6 **SECTION 5.3.(b)** Appropriations are made from the Information Technology
7 Fund for the 2009-2011 fiscal biennium as follows:

8			
9	Office of Information Technology Services	FY 2009-2010	FY 2010-2011
10			
11	Information Technology Operations	\$7,891,607	\$7,891,607
12			
13	Information Technology Projects	\$4,829,797	\$4,829,797
14			
15	Total	\$12,721,404	\$12,721,404

16
17 **APPROPRIATION OF CASH BALANCES**

18 **SECTION 5.4.(a)** State funds, as defined in G.S. 143C-1-1(d)(25), are
19 appropriated and authorized as provided in G.S. 143C-1-2 for the 2009-2011 fiscal biennium as
20 follows:

- 21 (1) For all budget codes listed in the Base Budget and Performance
22 Management Information sections of "North Carolina State Budget,
23 Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash
24 balances and receipts are appropriated up to the amounts specified in
25 Volumes 1 through 6, as adjusted by the General Assembly, for the
26 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be
27 expended only for the programs, purposes, objects, and line items specified
28 in Volumes 1 through 6, or otherwise authorized by the General Assembly.
29 Expansion budget funds listed in those documents are appropriated only as
30 otherwise provided in this act.
- 31 (2) For all budget codes that are not listed in "North Carolina State Budget,
32 Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash
33 balances and receipts are appropriated for each year of the 2009-2011 fiscal
34 biennium up to the level of actual expenditures for the 2008-2009 fiscal
35 year, unless otherwise provided by law. Funds may be expended only for the
36 programs, purposes, objects, and line items authorized for the 2008-2009
37 fiscal year.
- 38 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that
39 are required to be used to pay debt service requirements for various
40 outstanding bond issues and certificates of participation are appropriated up
41 to the actual amounts received for the 2009-2010 fiscal year and the
42 2010-2011 fiscal year and shall be used only to pay debt service
43 requirements.
- 44 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances
45 and receipts of funds that meet the definition issued by the Governmental
46 Accounting Standards Board of a trust or agency fund are appropriated for
47 and in the amounts required to meet the legal requirements of the trust
48 agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

49 **SECTION 5.4.(b)** Receipts collected in a fiscal year in excess of the amounts
50 authorized by this section shall remain unexpended and unencumbered until appropriated by
51 the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized

1 receipts in the fiscal year in which the receipts were collected is authorized by the State Budget
2 Act.

3 Overrealized receipts are appropriated up to the amounts necessary to implement
4 this subsection.

5 In addition to the consultation and reporting requirements set out in G.S. 143C-6-4,
6 the Office of State Budget and Management shall report to the Joint Legislative Commission on
7 Governmental Operations and to the Fiscal Research Division of the Legislative Services
8 Office within 30 days after the end of each quarter on any overrealized receipts approved for
9 expenditure under this subsection by the Director of the Budget. The report shall include the
10 source of the receipt, the amount overrealized, the amount authorized for expenditure, and the
11 rationale for expenditure.

12 **SECTION 5.4.(c)** Notwithstanding subsections (a) and (b) of this section, there is
13 appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax
14 Revenues for each fiscal year an amount equal to the amount of the distributions required by
15 law to be made from that reserve for that fiscal year.

17 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

18 **SECTION 5.5.(a)** Appropriations of funds received under the American Recovery
19 and Reinvestment Act of 2009 are made for the 2009-2011 fiscal biennium, according to the
20 following schedule:

	2009-2010	2010-2011
24 Fiscal Stabilization: Education	\$ 580,965,782	\$ 580,965,782
25 Fiscal Stabilization: General	129,261,335	129,261,335
26 Medicaid Disproportionate Share	7,314,833	7,314,833
28 Title I Grants	128,728,180	128,728,180
29 Title I School Improvement	38,336,500	38,336,500
30 IDEA: Part B	157,205,000	157,205,000
31 IDEA: Part B (Preschool)	6,035,500	6,035,500
32 Homeless Assistance	645,000	645,000
33 Education Technology	8,179,529	8,179,529
34 School Lunch Equipment	3,313,727	-
36 State Energy Programs	37,994,500	37,994,500
37 HOME Investment Partnership Program	26,076,344	26,076,344
38 Homelessness Prevention Fund	14,539,194	14,539,194
40 IDEA: Part C	6,365,500	6,365,500
41 TANF Supplemental Grants	27,075,000	9,025,000
42 Community Services Block Grant	8,748,333	11,664,444
43 Child Care and Development Block Grants	67,543,000	-
44 Vocational Rehabilitation Agency Funding	9,014,504	9,014,504
45 Older Blind Individuals/VR	521,182	521,182
46 Child Support Enforcement (Incentive Payments)	2,214,542	330,000
47 Weatherization Assistance Grants	131,954,536	-
48 Medicaid FMAP Increase	920,377,105	514,514,239
49 Medicaid FMAP Increase-local administration	-	-
50 Foster Care and Adoption FMAP Increase	2,840,410	726,309
51 Prevention and Wellness Fund Grants (Immunization)	5,689,500	5,689,500

1	Senior Meals Programs	1,384,392	1,384,392
2			
3	Byrne/Justice Assistance Grants	17,245,779	17,245,779
4	Violence Against Women: Services-Training-		
5	Officers-Prosecutors (STOP) Grants	3,784,000	-
6	Victims of Crime Act (VOCA) Grants: Victim		
7	Compensation	647,906	-
8	Victims of Crime Act (VOCA) Grants: Victim		
9	Assistance	1,110,000	-
10	Internet Crimes Against Children Task Force Program	879,040	-
11	Unemployment Insurance: Administration	7,323,699	7,323,699
12	Employment Services Grants (Wagner-Peysner)	11,091,396	-
13	Community Service Employment for Older Americans	1,583,153	1,583,153
14	Energy Efficiency and Conservation Block Grants	29,025,150	29,025,150
15	Clean Water State Revolving Funds	71,443,500	-
16	Drinking Water Revolving Funds	65,625,000	-
17	State Clean Diesel Program	1,730,000	-
18	Community Development Block Grant: Non-Entitlement		
19	Funds	6,040,307	6,040,307
20	Workforce Investment Act: Youth Activities	12,535,349	12,535,349
21	Workforce Investment Act: Adult Activities	5,168,583	5,168,583
22	Workforce Investment Act: Dislocated Worker		
23	Activities	22,209,637	22,209,637
24			
25	Transit Capital Assistance	103,304,242	-
26	Highway Infrastructure Investment	\$ 735,527,000	\$ -
27			
28	TOTAL	\$ 3,418,597,166	\$1,795,648,421

29 **SECTION 5.5.(b)** If funds received from the American Recovery and
30 Reinvestment Act of 2009 exceed the amount set out in subsection (a) of this section, such
31 additional funds are hereby appropriated for the appropriate fiscal year.

32 **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

34 **SECTION 5.6.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval
35 of the Director of the Budget and after consultation with the Joint Legislative Committee on
36 Governmental Operations, spend funds received from grants awarded subsequent to the
37 enactment of this act. The Office of State Budget and Management shall work with the
38 recipient State agencies to budget grant awards according to the annual program needs and
39 within the parameters of the respective granting entities. Depending on the nature of the award,
40 additional State personnel may be employed on a permanent or time-limited basis. The Office
41 of State Budget and Management shall consult with the Joint Legislative Commission on
42 Governmental Operations prior to expending any funds received from grant awards. Funds
43 received from such grants are hereby appropriated and shall be incorporated into the certified
44 budget of the recipient State agency.

45 **PART VI. GENERAL PROVISIONS**

46 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

48 **SECTION 6.1.** All funds appropriated by this act into reserves may be expended
49 only for the purposes for which the reserves were established.
50
51

BUDGET CODE CONSOLIDATIONS

SECTION 6.2. 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.

BUDGET REALIGNMENT

SECTION 6.3. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, 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.

ESTABLISHING OR INCREASING FEES PURSUANT TO THIS ACT

SECTION 6.4.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

SECTION 6.4.(b) In establishing or increasing a fee as authorized or anticipated in this act, if adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes, an agency may adopt a temporary rule as this constitutes a "recent act of the General Assembly" under G.S. 150B-21.1(a)(2). Pending adoption and review of the temporary rule, the agency may adopt an emergency rule under G.S. 150B-21.1A based solely on the need to raise revenue to fund services.

AUTHORIZATION TO ESTABLISH RECEIPT SUPPORTED POSITIONS

SECTION 6.5. Notwithstanding any other provision of law, a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

FISCAL CRISIS/FURLOUGH FLEXIBILITY

SECTION 6.6.(a) Findings. – The General Assembly finds that:

- (1) The extreme fiscal crisis affecting North Carolina's economy, the national economy, and global economic markets has substantially reduced the State's revenue projections for the 2009-2011 biennium.
- (2) Economies in State expenditures and maximized efficiencies in State operations must be effected immediately and systematically in order to meet the compelling State interest of enacting a balanced budget in accordance

1 with the State Constitution and to protect the interests of the people of North
2 Carolina.

- 3 (3) Given the broad scope and depth of other budget reduction and efficiency
4 measures required by this act, allowing voluntary furloughs and requiring
5 mandatory furloughs of public employees, when necessary, is a reasonable
6 measure to avoid disruptive mass layoffs and the elimination of positions in
7 public employment, to preserve the public health, safety, and welfare and to
8 continue the effective administration of important governmental functions in
9 the interest of the people of North Carolina.

10 **SECTION 6.6.(b)** To achieve savings identified in the management flexibility
11 reserves established in this act, State agencies may:

- 12 (1) Reduce salary-related expenditures by (i) reductions in purchased services
13 and contractual services, (ii) reductions in force, and (iii) with the approval
14 of the Director of the Budget, implementation of furloughs in accordance
15 with subsections (c) through (g) of this section; and
16 (2) Reduce non-salary expenditures such as purchases of supplies and
17 equipment, maintenance expenses, rental and lease expenses, and any other
18 allowable reductions in non-salary expenditures.

19 **SECTION 6.6.(c)** Definitions. – The following definitions apply in this section:

- 20 (1) Compensation. – Base rate of compensation, not including pay for shift
21 premiums, overtime, or other types of extraordinary pay.
22 (2) Essential positions. – Any position deemed by the head of an agency to be
23 necessary to perform the critical functions of that agency to protect the
24 health or safety of the agency's employees, students, clients, or patients of
25 the public agency or to protect the general public.
26 (3) Furlough. – A temporary period of leave from employment without pay.
27 (4) Nonessential positions. – Any position in a public agency that is not
28 designated as essential positions by the head of that agency.
29 (5) Public employee. – Any person employed (i) in the executive, legislative, or
30 judicial branch of State government, (ii) by The University of North
31 Carolina, (iii) by the North Carolina Community College System, or (iv) by
32 a local school administrative unit. The term includes public officers.
33 (6) Public agency. – Any State agency, department, or institution; and the
34 executive, legislative, and judicial branches of State government; The
35 University of North Carolina; the North Carolina Community College
36 System; and local school administrative units.

37 **SECTION 6.6.(d)** Furlough Flexibility. – For the 2009-2010 and 2010-2011 fiscal
38 years, public agencies have management flexibility to allow voluntary furloughs and to require
39 mandatory furloughs of public employees to generate necessary economies and efficiencies in
40 budgeting.

41 **SECTION 6.6.(e)** Compensation and Benefits. – A period of furlough shall only
42 affect or reduce a public employee's base salary or compensation. A period of furlough shall
43 not affect or diminish a public employee's continuous service, length of aggregate service,
44 retirement service credits, anniversary date, eligibility for authorized holiday leave, longevity
45 pay, or the accrual of vacation and sick leave. Periods of furlough shall be applied equitably to
46 all essential and nonessential positions regardless of the funding source of the position. A
47 furloughed public employee who is a member of:

- 48 (1) Any of the State-supported retirement plans administered by the Retirement
49 Systems Division of the Department of the State Treasurer shall be
50 considered in active service during any period of furlough and shall be
51 entitled to all of the same benefits to which the employee was entitled on the

1 workday immediately preceding the furlough. During a furlough period, the
2 public agency shall pay both the employee and employer contributions to the
3 Retirement Systems Division on behalf of the furloughed public employee as
4 though that employee were in active service.

- 5 (2) The State Health Plan for Teachers and State Employees shall be considered
6 eligible for coverage under the Plan on the same basis as on the workday
7 immediately preceding the furlough. The employing public agency shall pay
8 contributions on behalf of the furloughed employee as though the employee
9 were in active service.

10 **SECTION 6.6.(f)** Policies. – The Office of State Budget and Management
11 (OSBM) and the State Board of Education (SBE) shall each adopt policies necessary for the
12 implementation of this section. The policies shall govern (i) the scheduling of furloughs, (ii) the
13 amount of notice that must be given to a public employee prior to the effective date of a period
14 of furlough, (iii) whether furloughs may be taken in increments of full days, (iv) the continued
15 accrual of annual and sick leave, (v) treatment of part-time employees, and (vi) any other
16 matter related to the implementation of this section. The OSBM and SBE shall provide
17 maximum flexibility to public agencies and public employees in the scheduling of furlough
18 days to provide public agencies the ability to effectively manage furloughs of employees
19 employed in essential positions so as not to affect critical functions. The policies shall provide
20 that a public employee whose normal workday exceeds eight hours per day will sustain the
21 same proportionate reduction as a public employee who works eight hours per day. The Office
22 of State Personnel shall provide technical assistance to OSBM, as requested, in developing a
23 plan for the implementation of furloughs.

24 **SECTION 6.6.(g)** The OSBM and SBE shall adopt emergency rules for the
25 implementation of this section in accordance with G.S. 150B-21.1A, except that
26 notwithstanding G.S. 150B-21.1A(d) those emergency rules may remain in effect until the
27 expiration of this subsection. This subsection expires June 30, 2011.

28 **SECTION 6.6.(h)** Subsection (b) of this section is effective July 1, 2009. The
29 remainder of this sections is effective when it becomes law.

30 **INFORMATION TECHNOLOGY OPERATIONS**

31 **SECTION 6.7.(a)** Office of Information Technology Services Budget. –
32 Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop
33 an annual budget for review and approval by the Office of State Budget and Management in
34 accordance with a schedule prescribed by the Director of the Office of State Budget and
35 Management. The approved Office of Information Technology Services budget shall be
36 included in the Governor's budget recommendations to the General Assembly.

37
38 The Office of State Budget and Management shall ensure that State agencies have
39 an opportunity to adjust their budgets based on any rate changes proposed by the Office of
40 Information Technology Services.

41 **SECTION 6.7.(b)** Enterprise Projects. – The State Chief Information Officer shall
42 consult the respective State agency chief information officers to identify specific State agency
43 requirements prior to the initiation of any enterprise project. State agency requirements shall
44 be incorporated into any enterprise agreement signed by the State Chief Information Officer.
45 Enterprise projects shall not exceed the participating State agencies' ability to financially
46 support the contracts.

47 The State Chief Information Officer shall not enter into any information technology
48 contracts without obtaining written agreements from participating State agencies regarding
49 apportionment of funding. State agencies agreeing to participate in a contract shall:

- 50 (1) Ensure that sufficient funds are budgeted to support their agreed shares of
51 enterprise agreements throughout the life of the contract.

- 1 (2) Transfer the agreed-upon funds to the Office of Information Technology
2 Services in sufficient time for the Office of Information Technology
3 Services to meet contract requirements.

4 **SECTION 6.7.(c)** Notwithstanding the cash management provisions of
5 G.S. 147-86.11, the Office of Information Technology Services may procure information
6 technology goods and services for periods of up to a total of three years where the terms of the
7 procurement contract require payment of all, or a portion, of the contract purchase price at the
8 beginning of the agreement. All of the following conditions shall be met before payment for
9 these agreements may be disbursed:

- 10 (1) Any advance payment complies with the Office of Information Technology
11 Services budget.
12 (2) The State Controller receives conclusive evidence that the proposed
13 agreement would be more cost-effective than a multiyear agreement that
14 complies with G.S. 147-86.11.
15 (3) The procurement complies in all other aspects with applicable statutes and
16 rules.
17 (4) The proposed agreement contains contract terms that protect the financial
18 interests of the State against contractor nonperformance or insolvency
19 through the creation of escrow accounts for funds, source codes, or both, or
20 by any other reasonable means that have legally binding effect.

21 The Office of State Budget and Management shall ensure the savings from any authorized
22 agreement shall be included in the Office of Information Technology Services calculation of
23 rates before the Office of State Budget and Management annually approves the proposed rates.
24 The Office of Information Technology Services shall report to the Office of State Budget and
25 Management on any State agency budget impacts resulting from multiyear contracts.

26 The Office of Information Technology Services shall submit a quarterly written
27 report of any authorizations granted under this subsection to the Joint Legislative Oversight
28 Committee on Information Technology and to the Fiscal Research Division.

29 **SECTION 6.7.(d)** State agencies developing and implementing information
30 technology projects shall use the State infrastructure to host their projects. The State Chief
31 Information Officer may grant an exception if the State agency can demonstrate any of the
32 following:

- 33 (1) Using an outside contractor would be more cost-effective for the State.
34 (2) The Office of Information Technology Services does not have the technical
35 capabilities required to host the application.
36 (3) Valid security requirements preclude the use of State infrastructure, and a
37 contractor can provide a more secure environment.

38 **GEOGRAPHIC INFORMATION CONSOLIDATION**

39 **SECTION 6.8.(a)** Findings. – The General Assembly finds that there is a critical
40 need for consolidating the investments made in geographic information systems and developing
41 common infrastructures in order for the State to reap all the potential benefits of geographic
42 information systems at the lowest cost.

43 **SECTION 6.8.(b)** Implementation Plan. – The recommendations outlined in the
44 2008 legislative report prepared by the State Chief Information Officer, the Geographic
45 Information Coordinating Council, and the Office of State Budget and Management, made
46 pursuant to Section 6.13 of S.L. 2008-107, entitled "State Geographic Information
47 Consolidation Implementation Plan," shall be implemented in four distinct work streams, as
48 follows:
49

- 50 (1) Transferring the Center for Geographic Information and Analysis to the
51 Office of the State Chief Information Officer and establishing appropriated

1 funding for staff activities supporting the Geographic Information
2 Coordinating Council, statewide standards, and the coordination of data
3 acquisition.

4 (2) Reestablishing the professional services component and refocusing that
5 effort toward current needs of the community while reducing those overhead
6 costs.

7 (3) Revitalizing the NC OneMap project by leveraging new technology in the
8 market to reduce costs while increasing utility of the service.

9 (4) Establishing a geographic information systems Reserve Fund for the
10 acquisition of data layers which may be useful to multiple organizations and
11 through which data acquisition may be procured to reduce cost.

12 **SECTION 6.8.(c)** Transfers of Agencies, Powers, Duties. – The statutory
13 authority, powers, duties, functions, records, personnel, property, and unexpended balances of
14 appropriations, allocations, or other funds of the State agencies and subunits listed in this
15 subsection are transferred from those entities to the State Chief Information Officer, Office of
16 Information Technology Services, with all of the elements of a Type II transfer as defined by
17 G.S. 143A-6:

18 (1) The North Carolina Geographic Information Coordinating Council.

19 (2) The Center for Geographic Information and Analysis.

20 The Center for Geographic Information and Analysis shall remain in its current
21 office space unless the State Chief Information Officer determines otherwise.

22 **SECTION 6.8.(d)** Center for Geographic Information and Analysis Coordination.
23 – The State Chief Information Officer shall coordinate a professional services component for
24 geographic information systems coordination with the Center for Geographic Information and
25 Analysis that is refocused toward current community needs.

26 **SECTION 6.8.(e)** North Carolina Geographic Information Coordinating Council
27 Coordination. – The State Chief Information Officer, in cooperation with the North Carolina
28 Geographic Information Coordinating Council shall coordinate the refocusing of the NC
29 OneMap geographic information systems infrastructure project to leverage new technology, to
30 increase the utility of geographic information systems services, and to reduce geographic
31 information systems data layer costs through singly managed contracts.

32 **SECTION 6.8.(f)** Geographic Information Systems Reserve Fund. – There is
33 established in the Office of State Budget and Management the Geographic Information Systems
34 Reserve Fund, which shall be nonreverting, for the purpose of acquiring and managing, at the
35 lowest cost, data layers useful to multiple State and local organizations, according to the
36 priorities set by the North Carolina Geographic Information Coordinating Council. The
37 Geographic Information Systems Reserve Fund may receive private grants and may include
38 State, federal, local, and matching funds.

39 **SECTION 6.8.(g)** Information Technology Fund. – Of the funds appropriated in
40 this act to the Information Technology Fund, the sum of six hundred fifty thousand dollars
41 (\$650,000) for the 2009-2010 fiscal year and the sum of six hundred fifty thousand dollars
42 (\$650,000) for the 2010-2011 fiscal year shall be used to effectuate the transfer of the Center
43 for Geographic Information and Analysis, including the cost of moving personnel positions, as
44 provided by this act.

45 **BEACON DATA INTEGRATION**

46 **SECTION 6.9.(a)** The Office of the State Controller, in cooperation with the State
47 Chief Information Officer, shall continue the implementation of the BEACON Strategic Plan
48 for Data Integration, issued in April 2008. The plan shall be implemented under the governance
49 of the BEACON Project Steering Committee and in conjunction with leadership in appropriate
50

1 State agencies and with the support and cooperation of the Office of State Budget and
2 Management.

3 While it is the intent that this initiative provide broad access to information across
4 State government, the plan shall comply with all necessary security measures and restrictions to
5 ensure that access to any specific information held confidential under federal or State law shall
6 be limited to appropriate and authorized persons.

7 **SECTION 6.9.(b)** The Office of State Controller shall give the Criminal Justice
8 Data Integration Pilot Program first priority for funding and for system development and
9 implementation.

10 The Office of State Controller shall determine the amount of funding required to (i)
11 fully support the Criminal Justice Data Integration Pilot Program effort and (ii) develop full
12 operational capability in Wake County during the 2009-2010 fiscal year. The Office of State
13 Controller shall not otherwise obligate these funds.

14 **SECTION 6.9.(c)** By September 1, 2009, the Office of State Controller shall report
15 to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal
16 Research Division on (i) funding requirements and sources of funds for the Criminal Justice
17 Data Integration Pilot Program for the 2009-2010 fiscal year and (ii) the anticipated uses of any
18 remaining funds for the BEACON Data Integration Program. The Office of State Controller
19 shall spend funds to support the BEACON Data Integration Program only as is specifically
20 authorized in Section 6.16(d) of S.L. 2008-107.

21 By October 1, 2009, the Office of State Controller, in coordination with the State
22 Chief Information Officer, shall also report on future costs for implementing the BEACON
23 Data Integration Program, including outside vendor costs. This report shall include a detailed
24 explanation of potential costs and the efforts participating agencies are making to reduce these
25 costs. This report shall be presented to the Joint Legislative Oversight Committee on
26 Information Technology and written reports shall be provided to the House of Representatives
27 and Senate Appropriations Committees and to the Fiscal Research Division.

29 **CRIMINAL JUSTICE DATA INTEGRATION PILOT PROGRAM**

30 **SECTION 6.10.(a)** The Office of the State Controller, in cooperation with the
31 State Chief Information Officer and under the governance of the BEACON Project Steering
32 Committee, shall continue the development of the Criminal Justice Data Integration Pilot
33 Program in Wake County as specified in Section 6.15 of S.L. 2008-107. The Office of State
34 Controller shall achieve and demonstrate full operational capability of the pilot program in
35 Wake County before the system is expanded to other areas of the State.

36 **SECTION 6.10.(b)** The Criminal Justice Data Integration Pilot Program shall
37 continue to comply with all necessary security measures and restrictions to ensure that access to
38 any specific information held confidential under federal and State law shall be limited to
39 authorized persons.

40 **SECTION 6.10.(c)** The Office of State Controller shall develop a detailed plan for
41 the statewide expansion of the Criminal Justice Data Integration Pilot Program. This plan shall
42 include the following:

- 43 (1) An implementation schedule;
- 44 (2) The requirements individual users must meet to participate in the program;
- 45 (3) Detailed cost information for the development and implementation of a
46 statewide system, including any user costs;
- 47 (4) A governance structure for management and oversight of the system; and
- 48 (5) Any other issues associated with the implementation of the system.

49 The Office of State Controller shall submit this plan to the House of Representatives and
50 Senate Appropriations Committees, the Joint Legislative Oversight Committee on Information
51 Technology, and the Fiscal Research Division by January 31, 2010.

1 **SECTION 6.10.(d)** The Office of State Controller shall work with the data
2 integration software vendor to ensure that licenses are obtained at the least possible cost.

3 **SECTION 6.10.(e)** A State agency data center shall host the Criminal Justice Data
4 Integration Pilot Program. The Office of State Controller shall identify a State data center to
5 host the program and shall report its recommendation to the Joint Legislative Oversight
6 Committee on Information Technology by August 31, 2009.

7 **SECTION 6.10.(f)** Funds appropriated for the Criminal Justice Data Integration
8 Pilot Program shall only be used for that program. The Criminal Justice Data Integration Pilot
9 Program shall have first priority for funds available to the BEACON Data Integration Program.

10 **SECTION 6.10.(g)** The Office of State Controller shall continue to provide
11 quarterly written reports on the program's progress to the House of Representatives and Senate
12 Appropriations Committees, to the Joint Legislative Oversight Committee on Information
13 Technology, and to the Fiscal Research Division beginning October 1, 2009.

14
15 **OFFICE OF INFORMATION TECHNOLOGY SERVICES/UNC BULK PURCHASING**
16 **OF INFORMATION TECHNOLOGY**

17 **SECTION 6.11.** The General Administration of The University of North Carolina,
18 with assistance from the Office of Information Technology Services and the Office of State
19 Budget and Management, shall consolidate information technology infrastructure purchasing
20 which includes, but is not limited to, personal computer and printer purchases for all 16 State
21 universities, the North Carolina School of Science and Mathematics, and General
22 Administration, by creating a bulk purchasing process that will realize savings through
23 efficiencies. General Administration may choose to utilize the Office of Information
24 Technology Services' existing bulk contracts. Information technology infrastructure
25 expenditure shall not be authorized without complying with this section.

26
27 **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON INFORMATION**
28 **TECHNOLOGY/ REVIEW AND REPORT ON CURRENT LAW**

29 **SECTION 6.12.** By April 1, 2010, the Joint Legislative Oversight Committee on
30 Information Technology shall review State information technology-related legislation and
31 develop recommendations for amendment of current laws and shall submit its written report of
32 recommendations for legislative action to the Appropriations Committees of the Senate and the
33 House of Representatives. The Joint Legislative Oversight Committee on Information
34 Technology shall provide interested parties with the opportunity to identify and define pertinent
35 information technology issues by offering testimony on (i) issues associated with current
36 legislation, (ii) the impact of information technology laws on specific entities; and, (iii)
37 recommendations for improving information technology organization and operations within the
38 State.

39
40 **OFFICE OF INFORMATION TECHNOLOGY SERVICES/NETWORK**
41 **INTEGRATION/FEASIBILITY STUDY AND COORDINATION PLAN**

42 **SECTION 6.13.(a)** The State Chief Information Officer shall negotiate and
43 coordinate with MCNC to identify efficiencies that might be achieved through increased
44 cooperation and elimination of duplicative efforts in management of the State's network
45 infrastructure operated by the Office of Information Technology Services and by the North
46 Carolina Research and Education Network operated by MCNC. Potential efficiencies include,
47 but are not limited to, shared infrastructure, personnel, contracted services, and support.

48 **SECTION 6.13.(b)** Office of Information Technology Services and the Office of
49 State Budget and Management, in conjunction with MCNC, shall conduct a study to determine
50 the feasibility of coordinating the operation of the North Carolina Research and Education
51 Network and the State network infrastructure. The feasibility study shall define the capabilities

1 and limitations of the Office of Information Technology Services and MCNC and document
2 services currently provided by Office of Information Technology Services and MCNC. Further,
3 the feasibility study shall identify:

- 4 (1) Current and potential State agency network requirements.
- 5 (2) The organization currently supporting each network requirement.
- 6 (3) Requirements that are currently unsupported by either organization.
- 7 (4) Costs associated with each requirement.
- 8 (5) Potential cost savings resulting from network integration.
- 9 (6) Policy and operational issues associated with the coordination.

10 The study shall be reviewed by the Office of State Budget and Management, which
11 shall validate and certify the identified efficiencies and cost savings. Office of Information
12 Technology Services and MCNC shall complete the feasibility study and present it to the Joint
13 Legislative Oversight Committee on Information Technology by October 31, 2009.

14 **SECTION 6.13.(c)** Following review of the feasibility study by Office of State
15 Budget and Management, and if Office of State Budget and Management certifies that the
16 efficiencies and savings identified in the study are valid, accurate, and substantial enough to
17 justify increased coordination, then Office of Information Technology Services and MCNC
18 shall develop a plan to coordinate their operations. The coordination plan shall include at least
19 the following:

- 20 (1) Definition of requirements to achieve Statewide integration.
- 21 (2) Detailed information on the allocation of responsibility for each requirement
22 and component.
- 23 (3) An estimate of the associated costs with each requirement or component,
24 including what the costs to each agency would be without coordination.
- 25 (4) Priorities for integration.
- 26 (5) A schedule for implementation.
- 27 (6) Detailed cost information for the development and integration of a single
28 network.
- 29 (7) A governance structure for management and oversight of the network.
- 30 (8) A means for resolution of any issues identified during the feasibility study.

31 The coordination plan shall be completed by February 28, 2010, and shall be
32 presented to the Joint Legislative Commission on Governmental Operations and the Joint
33 Legislative Oversight Committee on Information Technology.

34 **SECTION 6.13.(d)** Prior to implementation of the plan, Office of Information
35 Technology Services and MCNC shall complete a memorandum of agreement that specifies
36 their respective roles and responsibilities and defines payment schedules. By January 1 each
37 year, Office of State Budget and Management shall report to the Joint Legislative Oversight
38 Committee on Information Technology regarding the status of the coordination plan and the
39 cost savings realized during the previous fiscal year.

40 **UPGRADE STATE PORTAL**

41 **SECTION 6.14.(a)** The Office of State Budget and Management, in coordination
42 with the Office of the State Chief Information Officer, shall develop a detailed plan to upgrade
43 the State portal. The upgrade plan shall include consideration of the need to (i) improve State
44 services for citizens and businesses; (ii) offer online services; (iii) provide crucial,
45 up-to-the-minute emergency information; and (iv) provide a multipurpose, interactive Web
46 portal.

47 **SECTION 6.14.(b)** Prior to developing the plan, the Office of State Budget and
48 Management shall obtain the advice and assistance of State and local government agencies,
49 businesses operating within the State, and private citizens to ensure that all potential users have
50 the opportunity to submit recommendations for inclusion in the final plan.
51

1 The Office of State Budget and Management shall also conduct an inventory of
2 capabilities that are available on other states' portals. With the assistance of State agencies, the
3 Office of State Budget and Management shall prioritize potential capabilities. Based on these
4 priorities, the Office of State Budget and Management shall develop a phased plan to allow
5 incremental implementation that includes a detailed time line for each phase and shall include
6 the cost associated with each phase.

7 **SECTION 6.14.(c)** The interactive Web portal shall include the capability for
8 citizens, businesses, and State and local government agencies to complete online transactions,
9 obtain live help from State agencies, and access emergency information in real time. The portal
10 shall include appropriate security measures and devices to include encryption, enterprise-class
11 firewalls/gateway security, real-time intrusion prevention and detection, virtual private
12 networks, vulnerability management, and virus protection.

13 **SECTION 6.14.(d)** By December 1, 2009, the Office of State Budget and
14 Management shall submit the upgrade plan to the Joint Legislative Oversight Committee on
15 Information Technology and to the Fiscal Research Division. The report shall include an
16 explanation of any recommendations that were not included in the final plan with an
17 explanation as to why each was not included and the cost associated with implementation of
18 those items.

19 20 **IT GSA SCHEDULES/STUDY**

21 **SECTION 6.15.** The Office of State Budget and Management shall conduct a
22 study to determine the feasibility of using General Services Administration schedules for the
23 acquisition of information technology products and services. The study shall include review of
24 the following:

- 25 (1) Any cost savings resulting from the use of General Services Administration
26 schedules for the acquisition of information technology goods and services.
27 This shall include any reductions in overhead that could be realized from the
28 use of General Services Administration schedules.
- 29 (2) Any benefits resulting from implementation.
- 30 (3) Any negative impacts resulting from implementation.
- 31 (4) Any legislative changes required to implement General Services
32 Administration schedules.

33 By February 1, 2010, the Office of State Budget and Management shall submit the results of
34 the study to the Joint Legislative Oversight Committee on Information Technology and to the
35 Fiscal Research Division.

36 37 **USE OF ELECTRONIC FORMS AND DIGITAL SIGNATURES**

38 **SECTION 6.16.(a)** The Office of State Budget and Management shall develop a
39 plan to increase the use of electronic forms and digital signatures throughout State government.
40 In developing the plan, first the Office of State Budget and Management shall conduct an
41 inventory of all paper or electronic forms currently in use by executive branch agencies. The
42 Office of State Budget and Management may hire temporary help for the collection and
43 compiling of the data for the inventory.

44 **SECTION 6.16.(b)** After completing the inventory, the Office of State Budget and
45 Management shall develop a plan for converting one or more paper forms to an electronic
46 format. The plan shall include a detailed business case for the conversion, including cost, cost
47 savings, cost avoidance, and any impact on productivity.

48 **SECTION 6.16.(c)** The Office of State Budget and Management shall assess the
49 potential cost of converting all identified forms in the inventory to an electronic format and
50 establish a timetable for achieving conversion as soon as practicable.

1 **SECTION 6.16.(d)** The Office of Information Technology Services shall provide
2 technical assistance to the Office of State Budget and Management in the development of the
3 plan to increase the use of electronic forms and digital signatures.

4 **SECTION 6.16.(e)** Executive branch State agencies shall provide all information
5 requested by Office of State Budget and Management in conducting the inventory and in all
6 other issues related to the development of this plan.

7 **SECTION 6.16.(f)** The Office of State Budget and Management shall submit the
8 plan to the Joint Legislative Oversight Committee on Information Technology on or before
9 March 1, 2010.

10 11 **POSITION TRANSFER REPORTS/OFFICE OF INFORMATION TECHNOLOGY** 12 **SERVICES/OSC**

13 **SECTION 6.17.(a)** By November 1, 2009, the Office of Information Technology
14 Services shall submit a written report to the Appropriation Committees of the Senate and the
15 House of Representatives, to the Joint Legislative Oversight Committee on Information
16 Technology, and to the Fiscal Research Division regarding the transfer of information
17 technology (IT) positions associated with IT consolidation. The report shall include the
18 following:

- 19 (1) The numbers and types of positions transferred to the Office of Information
20 Technology Services from other State agencies, an explanation as to why
21 each position was moved to Office of Information Technology Services, the
22 cost associated with each position, and how that cost is allocated.
- 23 (2) The number and types of information technology positions remaining with
24 each State agency, an explanation as to why the positions were retained by
25 the agency, and the total cost for each position.
- 26 (3) The number and location of positions eliminated as a result of IT
27 consolidation and the associated cost savings.
- 28 (4) Any new positions created within Office of Information Technology
29 Services to support IT consolidation, the reason each position was created,
30 and the associated cost.

31 **SECTION 6.17.(b)** By November 1, 2009, the Office of the State Controller shall
32 submit a written report to the Appropriations Committees of the Senate and House of
33 Representatives, to the Joint Legislative Oversight Committee on Information Technology, and
34 to the Fiscal Research Division on the transfer of positions associated with the implementation
35 of the BEACON (HR)/Payroll project. The report shall include the following:

- 36 (1) The numbers and types of positions transferred to the Office of the State
37 Controller from other State agencies, an explanation as to why each position
38 was moved to the Office of the State Controller, the cost associated with
39 each position, and how that cost is allocated.
- 40 (2) The number and types of positions remaining with each State agency, an
41 explanation as to why the positions were retained by the agency, and the
42 total cost for each position.
- 43 (3) The number and location of positions eliminated as a result of the
44 implementation of the BEACON HR/Payroll system and the associated cost
45 savings.
- 46 (4) Any new positions created within the Office of the State Controller to
47 support BEACON HR/Payroll, the reason each position was created, and the
48 associated cost.

49 50 **PART VII. PUBLIC SCHOOLS** 51

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.

USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 7.3.(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 in grades 4 and 7.

SECTION 7.3.(b) 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.

- 1 (3) "Anticipated total county revenue availability per student" means the
2 anticipated total county revenue availability for the county divided by the
3 average daily membership of the county.
- 4 (4) "Anticipated State average revenue availability per student" means the sum
5 of all anticipated total county revenue availability divided by the average
6 daily membership for the State.
- 7 (5) "Average daily membership" means average daily membership as defined in
8 the North Carolina Public Schools Allotment Policy Manual, adopted by the
9 State Board of Education. If a county contains only part of a local school
10 administrative unit, the average daily membership of that county includes all
11 students who reside within the county and attend that local school
12 administrative unit.
- 13 (6) "County-adjusted property tax base" shall be computed as follows:
14 a. Subtract the present-use value of agricultural land, horticultural land,
15 and forestland in the county, as defined in G.S. 105-277.2, from the
16 total assessed real property valuation of the county,
17 b. Adjust the resulting amount by multiplying by a weighted average of
18 the three most recent annual sales assessment ratio studies,
19 c. Add to the resulting amount the:
20 1. Present-use value of agricultural land, horticultural land, and
21 forestland, as defined in G.S. 105-277.2,
22 2. Value of property of public service companies, determined in
23 accordance with Article 23 of Chapter 105 of the General
24 Statutes, and
25 3. Personal property value for the county.
- 26 (7) "County-adjusted property tax base per square mile" means the
27 county-adjusted property tax base divided by the number of square miles of
28 land area in the county.
- 29 (8) "County wealth as a percentage of State average wealth" shall be computed
30 as follows:
31 a. Compute the percentage that the county per capita income is of the
32 State per capita income and weight the resulting percentage by a
33 factor of five-tenths,
34 b. Compute the percentage that the anticipated total county revenue
35 availability per student is of the anticipated State average revenue
36 availability per student and weight the resulting percentage by a
37 factor of four-tenths,
38 c. Compute the percentage that the county-adjusted property tax base
39 per square mile is of the State-adjusted property tax base per square
40 mile and weight the resulting percentage by a factor of one-tenth,
41 d. Add the three weighted percentages to derive the county wealth as a
42 percentage of the State average wealth.
- 43 (9) "Effective county tax rate" means the actual county tax rate multiplied by a
44 weighted average of the three most recent annual sales assessment ratio
45 studies.
- 46 (10) "Effective State average tax rate" means the average of effective county tax
47 rates for all counties.
- 48 (11) "Local current expense funds" means the most recent county current expense
49 appropriations to public schools, as reported by local boards of education in
50 the audit report filed with the Secretary of the Local Government
51 Commission pursuant to G.S. 115C-447.

- 1 (12) "Per capita income" means the average for the most recent three years for
2 which data are available of the per capita income according to the most
3 recent report of the United States Department of Commerce, Bureau of
4 Economic Analysis, including any reported modifications for prior years as
5 outlined in the most recent report.
- 6 (13) "Sales assessment ratio studies" means sales assessment ratio studies
7 performed by the Department of Revenue under G.S. 105-289(h).
- 8 (14) "State average current expense appropriations per student" means the most
9 recent State total of county current expense appropriations to public schools,
10 as reported by local boards of education in the audit report filed with the
11 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 12 (15) "State average adjusted property tax base per square mile" means the sum of
13 the county-adjusted property tax bases for all counties divided by the
14 number of square miles of land area in the State.
- 15 (16) "Supplant" means to decrease local per student current expense
16 appropriations from one fiscal year to the next fiscal year.
- 17 (17) "Weighted average of the three most recent annual sales assessment ratio
18 studies" means the weighted average of the three most recent annual sales
19 assessment ratio studies in the most recent years for which county current
20 expense appropriations and adjusted property tax valuations are available. If
21 real property in a county has been revalued one year prior to the most recent
22 sales assessment ratio study, a weighted average of the two most recent sales
23 assessment ratios shall be used. If property has been revalued the year of the
24 most recent sales assessment ratio study, the sales assessment ratio for the
25 year of revaluation shall be used.

26 **SECTION 7.3.(c)** Eligibility for Funds. – Except as provided in subsection (g) of
27 this section, the State Board of Education shall allocate these funds to local school
28 administrative units located in whole or in part in counties in which the county wealth as a
29 percentage of the State average wealth is less than one hundred percent (100%).

30 **SECTION 7.3.(d)** Allocation of Funds. – Except as provided in subsection (f) of
31 this section, the amount received per average daily membership for a county shall be the
32 difference between the State average current expense appropriations per student and the current
33 expense appropriations per student that the county could provide given the county's wealth and
34 an average effort to fund public schools. (To derive the current expense appropriations per
35 student that the county could be able to provide given the county's wealth and an average effort
36 to fund public schools, multiply the county's wealth as a percentage of State average wealth by
37 the State average current expense appropriations per student.) The funds for the local school
38 administrative units located in whole or in part in the county shall be allocated to each local
39 school administrative unit located in whole or in part in the county based on the average daily
40 membership of the county's students in the school units. If the funds appropriated for
41 supplemental funding are not adequate to fund the formula fully, each local school
42 administrative unit shall receive a pro rata share of the funds appropriated for supplemental
43 funding.

44 **SECTION 7.3.(e)** Formula for Distribution of Supplemental Funding Pursuant to
45 This Section Only. – The formula in this section is solely a basis for distribution of
46 supplemental funding for low-wealth counties and is not intended to reflect any measure of the
47 adequacy of the educational program or funding for public schools. The formula is also not
48 intended to reflect any commitment by the General Assembly to appropriate any additional
49 supplemental funds for low-wealth counties.

50 **SECTION 7.3.(f)** Minimum Effort Required. – Counties that had effective tax
51 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that

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

14 **SECTION 7.3.(g) Nonsupplant Requirement.** – A county in which a local school
15 administrative unit receives funds under this section shall use the funds to supplement local
16 current expense funds and shall not supplant local current expense funds. For the 2009-2011
17 fiscal biennium, the State Board of Education shall not allocate funds under this section to a
18 county found to have used these funds to supplant local per student current expense funds. The
19 State Board of Education shall make a finding that a county has used these funds to supplant
20 local current expense funds in the prior year, or the year for which the most recent data are
21 available, if:

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

29 **SECTION 7.3.(h) Reports.** – The State Board of Education shall report to the Joint
30 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties
31 have supplanted funds.

32 **SECTION 7.3.(i) Department of Revenue Reports.** – The Department of Revenue
33 shall provide to the Department of Public Instruction a preliminary report for the current fiscal
34 year of the assessed value of the property tax base for each county prior to March 1 of each
35 year and a final report prior to May 1 of each year. The reports shall include for each county the
36 annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of
37 total real property represented by the present-use value of agricultural land, horticultural land,
38 and forestland as defined in G.S. 105-277.2, (iii) property of public service companies
39 determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv)
40 personal property.

41 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

42 **SECTION 7.4.(a) Funds for Small School Systems.** – Except as provided in
43 subsection (b) of this section, the State Board of Education shall allocate funds appropriated for
44 small school system supplemental funding (i) to each county school administrative unit with an
45 average daily membership of fewer than 3,175 students and (ii) to each county school
46 administrative unit with an average daily membership from 3,175 to 4,000 students if the
47 county in which the local school administrative unit is located has a county-adjusted property
48 tax base per student that is below the State-adjusted property tax base per student and if the
49 total average daily membership of all local school administrative units located within the
50 county is from 3,175 to 4,000 students. The allocation formula shall:
51

- 1 (1) Round all fractions of positions to the next whole position.
- 2 (2) Provide five and one-half additional regular classroom teachers in counties
- 3 in which the average daily membership per square mile is greater than four,
- 4 and seven additional regular classroom teachers in counties in which the
- 5 average daily membership per square mile is four or fewer.
- 6 (3) Provide additional program enhancement teachers adequate to offer the
- 7 standard course of study.
- 8 (4) Change the duty-free period allocation to one teacher assistant per 400
- 9 average daily membership.
- 10 (5) Provide a base for the consolidated funds allotment of at least seven hundred
- 11 eighty-eight thousand seven hundred eighty-nine dollars (\$788,789),
- 12 excluding textbooks, for the 2009-2010 fiscal year and a base of seven
- 13 hundred eighty-eight thousand seven hundred eighty-nine dollars (\$788,789)
- 14 for the 2010-2011 fiscal year.
- 15 (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If
- 16 funds appropriated for each fiscal year for small school system supplemental
- 17 funding are not adequate to fully fund the program, the State Board of
- 18 Education shall reduce the amount allocated to each county school
- 19 administrative unit on a pro rata basis. This formula is solely a basis for
- 20 distribution of supplemental funding for certain county school administrative
- 21 units and is not intended to reflect any measure of the adequacy of the
- 22 educational program or funding for public schools. The formula is also not
- 23 intended to reflect any commitment by the General Assembly to appropriate
- 24 any additional supplemental funds for such county administrative units.

25 **SECTION 7.4.(b) Nonsupplant Requirement.** – A county in which a local school
26 administrative unit receives funds under this section shall use the funds to supplement local
27 current expense funds and shall not supplant local current expense funds. For the 2009-2011
28 fiscal biennium, the State Board of Education shall not allocate funds under this section to a
29 county found to have used these funds to supplant local per student current expense funds. The
30 State Board of Education shall make a finding that a county has used these funds to supplant
31 local current expense funds in the prior year, or the year for which the most recent data are
32 available, if:

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

40 **SECTION 7.4.(c) Phase-Out Provisions.** – If a local school administrative unit
41 becomes ineligible for funding under this formula because of (i) an increase in the population
42 of the county in which the local school administrative unit is located or (ii) an increase in the
43 county-adjusted property tax base per student of the county in which the local school
44 administrative unit is located, funding for that unit shall be continued for nine years after the
45 unit becomes ineligible.

46 **SECTION 7.4.(d) Definitions.** – As used in this section:

- 47 (1) "Average daily membership" means within two percent (2%) of the average
- 48 daily membership as defined in the North Carolina Public Schools Allotment
- 49 Policy Manual adopted by the State Board of Education.
- 50 (2) "County-adjusted property tax base per student" means the total assessed
- 51 property valuation for each county, adjusted using a weighted average of the

1 three most recent annual sales assessment ratio studies, divided by the total
2 number of students in average daily membership who reside within the
3 county.

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

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

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

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

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

24 **SECTION 7.4.(e) Reports.** – The State Board of Education shall report to the Joint
25 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties
26 have supplanted funds.

27 **SECTION 7.4.(f) Use of Funds.** – Local boards of education are encouraged to use
28 at least twenty percent (20%) of the funds they receive pursuant to this section to improve the
29 academic performance of children who are performing at Level I or II on either reading or
30 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II
31 on the writing tests in grades 4 and 7.

32 **REPLACEMENT SCHOOL BUSES/FUNDS**

34 **SECTION 7.5.(a)** The State Board of Education may impose any of the following
35 conditions on allotments to local boards of education for replacement school buses:

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

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

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

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

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

3 (6) Any other condition the State Board of Education considers appropriate.

4 **SECTION 7.5.(b)** Any term contract for the purchase or lease-purchase of school
5 buses or school activity buses shall not require vendor payment of the electronic procurement
6 transaction fee of the North Carolina E-Procurement Service.

7 8 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

9 **SECTION 7.6.(a)** If the State Board of Education does not have sufficient
10 resources in the ADM Contingency Reserve line item to make allotment adjustments in
11 accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina
12 Public Schools Allotment Policy Manual, the State Board of Education may use funds
13 appropriated to State Aid for Public Schools for this purpose.

14 **SECTION 7.6.(b)** If the higher of the first or second month average daily
15 membership in a local school administrative unit is at least two percent (2%) or 100 students
16 lower than the anticipated average daily membership used for allotments for the unit, the State
17 Board of Education shall reduce allotments for the unit. The reduced allotments shall be based
18 on the higher of the first or second month average daily membership plus one-half of the
19 number of students overestimated in the anticipated average daily membership.

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

23 24 **LITIGATION RESERVE FUNDS**

25 **SECTION 7.7.** The State Board of Education may expend up to five hundred
26 thousand dollars (\$500,000) each year for the 2009-2010 and 2010-2011 fiscal years from
27 unexpended funds for certified employees' salaries to pay expenses related to litigation.

28 29 **LEA FLEXIBILITY**

30 **SECTION 7.8.(a)** The State Board of Education may implement temporary
31 modifications to the limitations on budget flexibility set out in G.S. 115C-105.25. For the
32 2009-2010 and 2010-2011 fiscal years, local school administrators shall make every effort to
33 reduce spending whenever and wherever such budget reductions are appropriate as long as the
34 targeted reductions do not directly impact classroom services or any services for students at risk
35 or children with special needs.

36 **SECTION 7.8.(b)** Within 14 days of the date this act becomes law, the State Board
37 of Education shall notify each local school administrative unit and charter school of the amount
38 the unit shall reduce from the State General Fund appropriations. The State Board shall
39 determine the amount of the reduction for each unit on the basis of average daily membership.

40 **SECTION 7.8.(c)** Each unit shall report to the Department of Public Instruction on
41 the flexibility budget reductions it has identified for the unit within 30 days of the date this act
42 becomes law.

43 44 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

45 **SECTION 7.9.(a)** Beginning with the 2010-2011 fiscal year, the State Board of
46 Education shall implement an allotment formula for e-learning developed pursuant to Section
47 7.16(d) of S.L. 2006-66.

48 The North Carolina Virtual Public School (NCVPS) shall be available at no cost to
49 all high school students in North Carolina who are enrolled in North Carolina's public schools,
50 Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

1 The Department of Public Instruction shall communicate to local school
2 administrative units all applicable guidelines regarding the enrollment of nonpublic school
3 students in these courses.

4 **SECTION 7.9.(b)** In order to ensure funds are available to operate NCVPS for the
5 2009-2010 fiscal year, the State Board of Education shall use funding sources in the following
6 order:

- 7 (1) The General Fund appropriation for NCVPS;
- 8 (2) Available funds received under the American Recovery and Reinvestment
9 Act;
- 10 (3) Up to six million dollars (\$6,000,000) of funds appropriated for school
11 technology;
- 12 (4) Funds from the State Public School Fund.

13 **SECTION 7.9.(c)** NCVPS courses shall be available only to high school students.

14 **SECTION 7.9.(d)** The State Board of Education shall report to the Joint
15 Legislative Education Oversight Committee and the Fiscal Research Division by December 15,
16 2009, on its implementation of this section.

17 18 **LEARN AND EARN ONLINE**

19 **SECTION 7.10.(a)** Funds are appropriated in this act for the Learn and Earn
20 Online program. This program will allow high school students to enroll in college courses to
21 qualify for college credit. Online courses shall be made available to students through The
22 University of North Carolina and the North Carolina Community College System.

23 **SECTION 7.10.(b)** Funds shall be used for:

- 24 (1) Course tuition and only those technology and course fees and textbooks
25 required for course participation; and
- 26 (2) A liaison position in the Department of Public Instruction to coordinate with
27 The University of North Carolina and the North Carolina Community
28 College System and to communicate course availability and related
29 information to high school administrators, teachers, and counselors.

30 **SECTION 7.10.(c)** The State Board of Education shall determine the allocation of
31 Learn and Earn Online course offerings across the State.

32 **SECTION 7.10.(d)** The State Board of Education shall allot funds for tuition, fees,
33 and textbooks on the basis of and after verification of the credit hour enrollment of high school
34 students in Learn and Earn Online courses. The Office of State Budget and Management shall
35 transfer sufficient funds from the State Public School Fund to the Community Colleges System
36 Office for courses offered by community colleges.

37 **SECTION 7.10.(e)** The University of North Carolina program shall report to The
38 University of North Carolina Board of Governors, and the North Carolina Community College
39 program shall report to the State Board of Community Colleges. The Department of Public
40 Instruction shall report to the State Board of Education.

41 **SECTION 7.10.(f)** Both The University of North Carolina and the North Carolina
42 Community College System shall provide oversight and coordination, including coordination
43 with the Department of Public Instruction and with the North Carolina Virtual Public School
44 (NCVPS), to avoid course duplication.

45 **SECTION 7.10.(g)** The programs shall establish course quality and rigor standards
46 and shall conduct course evaluations to ensure that the online courses meet the established
47 standards.

48 **SECTION 7.10.(h)** Local school administrative units may purchase textbooks for
49 Learn and Earn Online courses through the Department of Public Instruction's textbook
50 warehouse in the same manner as textbooks that have been adopted for public school students
51 by the State Board of Education.

1 **SECTION 7.10.(i)** Funds appropriated for Learn and Earn Online that are
2 unexpended or unencumbered at the end of each fiscal year shall not revert but shall remain
3 available for expenditure.

4 **SECTION 7.10.(j)** Subsection (i) of this section becomes effective June 30, 2009.
5

6 **ABCS OF PUBLIC EDUCATION**

7 **SECTION 7.11.** Notwithstanding G.S. 115C-105.36, the State Board of Education
8 shall place a one-year moratorium on financial awards paid to school personnel in the
9 2009-2010 fiscal year based on 2008-2009 student academic performance.

10 The State Board of Education shall develop a plan to restructure the ABCs
11 Accountability System and report the restructuring plan to the Governor and General Assembly
12 by January 31, 2010.
13

14 **SCHOOL CONNECTIVITY INITIATIVE**

15 **SECTION 7.12.(a)** Up to three hundred thousand dollars (\$300,000) may be
16 transferred annually to the Office of the Governor for NC Virtual (NCV) within the Education
17 Cabinet. These funds may be used for services to coordinate e-learning activities across all
18 State educational agencies.

19 **SECTION 7.12.(b)** Of the funds allocated for the School Connectivity Initiative,
20 the sum of two hundred fifty thousand dollars (\$250,000) may be used annually to sustain the
21 Education E-Learning Portal.

22 **SECTION 7.12.(c)** Section 7.6(a) of S.L. 2008-107 reads as rewritten:

23 "**SECTION 7.6.(a)** Up to ~~six~~three hundred thousand dollars ~~(\$600,000)~~(\$300,000) may be
24 transferred annually through June 30, 2013, to the Friday Institute at North Carolina State
25 University to evaluate the effectiveness of using technology and its impact on 21st Century
26 Teaching and Learning outcomes approved by the State Board of Education. The Friday
27 Institute shall report annually to the State Board of Education on the evaluation ~~results,~~
28 ~~including recommendations for continued implementation of the school connectivity initiative~~
29 ~~that improves teaching and learning results.~~"

30 **SECTION 7.12.(d)** Funds allocated to the School Connectivity Initiative shall
31 carry forward to the next fiscal year until the project is fully implemented by June 30, 2010.

32 **SECTION 7.12.(e)** Subsection (d) of this section becomes effective on June 30,
33 2009.
34

35 **DROPOUT PREVENTION GRANTS**

36 **SECTION 7.13.(a)** Dropout Prevention Grants. – The Committee on Dropout
37 Prevention, as reestablished in Section 7.14 of S.L. 2008-107, may use funds appropriated in
38 this act to provide grants to new recipients or to extend additional funding to organizations that
39 received funding previously.

40 **SECTION 7.13.(b)** Criteria for Dropout Prevention Grants. – The following
41 criteria apply to all types of dropout prevention grants approved by the Committee:

- 42 (1) Grants shall be issued in varying amounts up to a maximum of one hundred
43 fifty thousand dollars (\$150,000).
- 44 (2) These grants shall be provided to innovative programs and initiatives that
45 target students at risk of dropping out of school and that demonstrate the
46 potential to (i) be developed into effective, sustainable, and coordinated
47 dropout prevention and reentry programs in middle schools and high schools
48 and (ii) serve as effective models for other programs.
- 49 (3) Grants shall be distributed geographically throughout the State and
50 throughout the eight educational districts as defined in G.S. 115C-65. No

- 1 more than three grants shall be awarded in any one county under this section
2 in a single fiscal year.
- 3 (4) Grants may be made to local school administrative units, schools, local
4 agencies, or nonprofit organizations.
- 5 (5) Grants shall be to programs and initiatives that hold all students to high
6 academic and personal standards.
- 7 (6) Grant applications shall state (i) how grant funds will be used, (ii) what, if
8 any, other resources will be used in conjunction with the grant funds, (iii)
9 how the program or initiative will be coordinated to enhance the
10 effectiveness of existing programs, initiatives, or services in the community,
11 and (iv) a process for evaluating the success of the program or initiative.
- 12 (7) Programs and initiatives that receive grants under this section shall be based
13 on best practices for helping at-risk students achieve successful academic
14 progress, preventing students from dropping out of school, or for increasing
15 the high school completion rate for those students who already have dropped
16 out of school.
- 17 (8) Priority for grants shall be given to proposals that demonstrate input from
18 the local community and coordination with other available programs or
19 resources.
- 20 (9) Grantees shall assure their compliance with applicable laws and rules
21 regulating conflicts of interest.
- 22 (10) Priority for grants shall be given to programs that would serve students in
23 local schools that have a four-year cohort graduation rate of less than
24 sixty-five percent (65%). The Committee shall establish a grant rating cutoff
25 score at such a level as to allow for consideration of all viable grants in this
26 priority category. The Committee may require grantees to provide
27 supplemental information in response to any prior reviewer comments.
- 28 (11) The demonstrated need for a grant, level of collaboration, ability to increase
29 attendance, persistence, academic success, ability to increase parental
30 involvement, and graduation shall be given more weight than the quality of
31 the written grant.
- 32 (12) Grants shall be made no later than November 1, 2009.

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

36 **SECTION 7.13.(c)** Evaluation. – The Committee shall evaluate the impact of the
37 dropout prevention grants awarded under this section. In evaluating the impact of the grants,
38 the Committee shall consider:

- 39 (1) How grant funds were used, including the services provided for teen
40 pregnancy prevention and for pregnant and parenting teens;
- 41 (2) The success of the program or initiative, as indicated by the evaluation
42 process stated in its grant application;
- 43 (3) The extent to which the program or initiative has improved students'
44 attendance, test scores, persistence, and graduation rates;
- 45 (4) How the program or initiative was coordinated to enhance the effectiveness
46 of existing programs, initiatives, or services in the community;
- 47 (5) What, if any, other resources were used in conjunction with the grant funds;
- 48 (6) The sustainability of the program;
- 49 (7) The number, gender, ethnicity, and grade level of students being served as
50 well as whether the students left school due to pregnancy or parenting
51 responsibilities;

- 1 (8) The potential for the program to serve as a model for achieving successful
2 academic progress for at-risk students; and
3 (9) Other indicators of the impact of the grant on dropout prevention.

4 The recipients of the dropout prevention grants awarded under this section shall
5 report to the Committee on Dropout Prevention by January 31, 2011, and by September 30,
6 2011. The reports shall provide information to assist the Committee in conducting its
7 evaluation. The reports shall include a statement that the recipients used grant funds for the
8 purposes appropriated by the General Assembly and complied with applicable laws,
9 regulations, and terms and conditions of the grant documents. The Committee shall make an
10 interim report of the results of its evaluation of the grants awarded under this section by March
11 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School
12 Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall
13 make a final report of the results of its evaluation of the grants awarded under subsection (c) of
14 this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention
15 and High School Graduation and to the Joint Legislative Education Oversight Committee.

16 **SECTION 7.13.(d)** Of the funds appropriated in this act for the Committee on
17 Dropout Prevention, the sum of one million dollars (\$1,000,000) for the 2009-2010 and
18 2010-2011 fiscal years shall be used to award new grants, as well as additional grants to
19 previous grant recipients, in accordance with subsection (b) of this section.

20 **SECTION 7.13.(e)** Funds appropriated for the dropout prevention grants for the
21 2009-2010 fiscal year and the 2010-2011 fiscal year shall not revert but shall remain available
22 for expenditure until August 31, 2011.

23 **SECTION 7.13.(f)** Of the funds appropriated for the dropout prevention grants, the
24 sum of one hundred thousand dollars (\$100,000) for the 2009-2010 and 2010-2011 fiscal years
25 may be used to issue a request for proposals from qualified vendors on a competitive basis to
26 contract as a consultant to assist with the evaluation. The factors to be considered in awarding
27 the contract shall be identified in the request for proposals.

28 **SECTION 7.13.(g)** Of the funds appropriated for the dropout prevention grants,
29 the Department of Public Instruction may use up to fifty thousand dollars (\$50,000) in fiscal
30 years 2009-2010 and 2010-2011 for its administrative assistance to the Committee and provide
31 technical assistance under this section.

32 **DEPARTMENT OF PUBLIC INSTRUCTION/BUDGET FLEXIBILITY**

33 **SECTION 7.14.** Notwithstanding G.S. 143C-6-4, the Department of Public
34 Instruction may reorganize, if necessary, to implement the budget reductions set out in this act.
35 The Department shall report to the Joint Legislative Commission on Governmental Operations
36 on any reorganization.
37

38 **BUSINESS EDUCATION TECHNOLOGY ALLIANCE**

39 **SECTION 7.15.** G.S. 115C-102.15 is repealed.
40

41 **CRITICAL FOREIGN LANGUAGE PILOT FUNDS DO NOT REVERT**

42 **SECTION 7.16.(a)** Funds appropriated for the Critical Foreign Language Pilot that
43 are unexpended or unencumbered shall not revert but shall remain available for expenditure
44 through June 30, 2010.
45

46 **SECTION 7.16.(b)** This section becomes effective June 30, 2009.
47

48 **NORTH CAROLINA 1:1 LEARNING PROJECT**

49 **SECTION 7.17.(a)** Funds appropriated for the North Carolina 1:1 Learning Project
50 that are unexpended or unencumbered at the end of the 2008-2009 fiscal year shall not revert
51 but shall remain available for expenditure through June 30, 2010.

1 **SECTION 7.17.(b)** This section becomes effective June 30, 2009.

2
3 **ASSESSMENT AND ACCOUNTABILITY**

4 **SECTION 7.18.(a)** Funds appropriated in this act for assessment and
5 accountability shall be used to develop new end-of-course and end-of-grade tests, identify
6 national assessments, or both, as determined by the State Board of Education. The
7 development of any new tests replacing end-of-course and end-of-grade tests shall be aligned
8 with the new essential standards and included in the State Board of Education's new
9 accountability restructuring plan.

10 **SECTION 7.18.(b)** Notwithstanding G.S. 115C-174.11, the State Board of
11 Education shall investigate and pilot a developmentally appropriate diagnostic assessment for
12 students in elementary grades during the 2009-2010 school year. This assessment will (i)
13 enable teachers to determine student learning needs and individualize instruction and (ii) ensure
14 that students are adequately prepared for the next level of coursework as set out by the standard
15 course of study.

16 The State Board of Education shall report the results of the pilot to the Joint
17 Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of
18 State Budget and Management, by December 1, 2010.

19 **SECTION 7.18.(c)** Funds appropriated for assessment and accountability that
20 remain unexpended and unencumbered at the end of the 2009-2010 fiscal year shall not revert
21 but shall remain available for expenditure through June 30, 2011.

22
23 **DEVELOPMENT OF A PREK-20 DATA SYSTEM**

24 **SECTION 7.19.(a)** The Department of Public Instruction, the North Carolina
25 Community College System, and The University of North Carolina shall collaboratively
26 develop and systematically determine the technical specifications and data standards for a
27 PreK-20 data system to centralize student data collected about students enrolled in
28 prekindergarten programs through doctoral programs. The PreK-20 data system shall build
29 upon the current capacity, programs, and initiatives of the Department of Public Instruction, the
30 North Carolina Community College System, and The University of North Carolina.

31 The Department of Public Instruction, the North Carolina Community College
32 System, and The University of North Carolina shall also collaboratively develop a strategy for
33 tracking students for five years after they complete their education at a North Carolina public
34 educational institution.

35 **SECTION 7.19.(b)** The PreK-20 data standards and specifications shall include:

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

47 **SECTION 7.19.(c)** Standards and specifications shall conform to the guidelines
48 and instructions governing any funds received through the American Recovery and
49 Reinvestment Act of 2009 for this purpose.

50 **SECTION 7.19.(d)** Standards and specifications shall be submitted to the
51 Education Cabinet no later than January 1, 2010. The Education Cabinet shall review these

standards and submit its recommendations regarding them to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management by March 1, 2010.

ELIMINATE CERTAIN TESTS

SECTION 7.20.(a) The State Board of Education shall identify and eliminate certain unnecessary or duplicative tests not required by the federal government for No Child Left Behind (NCLB) to determine Adequate Yearly Progress (AYP).

SECTION 7.20.(b) G.S. 115C-174.10 reads as rewritten:

"§ 115C-174.10. Purposes of the Statewide Testing Program.

The ~~three~~ testing programs in this Article have three purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society; (ii) to provide a means of identifying strengths and weaknesses in the education process in order to improve instructional delivery; and (iii) to establish additional means for making the education system at the State, local, and school levels accountable to the public for results."

SECTION 7.20.(c) G.S. 115C-174.11 reads as rewritten:

"§ 115C-174.11. Components of the testing program.

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving a federal grant under the Reading First Program.

(b) ~~Competency Testing Program.~~

(1) ~~The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.~~

(2) ~~The tests shall be administered annually to all ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.~~

(3) ~~The State Board of Education shall:~~

a. ~~Adopt one or more nationally standardized tests or other nationally standardized equivalent measures that measure competencies in the verbal and quantitative areas; or~~

b. ~~Develop and validate alternate means and standards for demonstrating minimum competence. These standards must be as difficult as the tests adopted pursuant to subdivision (1) of this subsection.~~

~~The State Board of Education shall adopt a policy to identify which students and under what circumstances students may pass one of these tests in lieu of the testing requirement of subdivision (2) of this subsection.~~

~~(3a) Students with disabilities who fail to pass the competency test adopted pursuant to subdivision (2) of this subsection after two attempts shall be given the opportunity to take and pass one of the alternate tests adopted pursuant to subdivision (3) of this subsection.~~

(4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14.

(c) Annual Testing Program.

(1) The State Board of Education shall adopt ~~a system of annual testing the tests~~ for grades three through ~~12~~ 12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies ~~designated by the State Board~~ for grades nine through 12. ~~The State Board may develop and implement a plan for high school end-of-course tests that must be aligned with the content standards developed under G.S. 115C-12(9c).~~ Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade. ~~This assistance shall be calculated to prepare the students to pass the competency test administered under subsection (b) of this section.~~

(2) If the State Board of Education finds that additional testing in grades three through 12 is desirable to allow comparisons with national indicators of student achievement, that testing shall be conducted with the smallest size sample of students necessary to assure valid comparisons with other states.

(d) The State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant."

SECTION 7.20.(d) G.S. 115C-174.12 reads as rewritten:

"§ 115C-174.12. Responsibilities of agencies.

(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or ~~national tests other~~ standardized tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a child's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit

1 the use of statewide tests as the sole determinant of decisions about a child's graduation or
2 promotion, and (iii) provide parents with information about the Statewide Testing Program and
3 options for students with disabilities. The State Board shall report its proposed policies and
4 proposed changes in policies to the Joint Legislative Education Oversight Committee prior to
5 adoption.

6 The State Board of Education may appoint an Advisory Council on Testing to assist in
7 carrying out its responsibilities under this Article.

8 (b) The ~~Superintendent of Public Instruction~~Chief Executive Officer shall be
9 responsible, under policies adopted by the State Board of Education, for the statewide
10 administration of the testing program provided by this Article.

11 (b1) The ~~Superintendent~~Chief Executive Officer shall notify local boards of education
12 by October 1 of each year of any field tests that will be administered in their schools during the
13 school year, the schools at which the field tests will be administered, and the specific field tests
14 that will be administered at each school.

15 (c) Local boards of education shall cooperate with the State Board of Education in
16 implementing the provisions of this Article, including the regulations and policies established
17 by the State Board of Education. Local school administrative units shall use the annual ~~and~~
18 ~~competency testing programs tests~~ to fulfill the purposes set out in this Article. Local school
19 administrative units are encouraged to continue to develop local testing programs designed to
20 diagnose student ~~needs further needs.~~"

21 REMOVE BARRIERS TO LATERAL ENTRY INTO TEACHING

22 **SECTION 7.21.(a)** The State Board of Education shall:

- 23 (1) Review the lateral entry program and identify and remove from it barriers to
24 the lateral entry of skilled individuals from the private sector into the
25 teaching profession;
- 26 (2) Reduce the coursework requirements for lateral entry by consolidating the
27 required competencies into fewer courses and fewer semester hours of
28 coursework; and
- 29 (3) Provide additional opportunities for individuals to complete coursework
30 online and at community colleges.

31 **SECTION 7.21.(b)** The State Board of Education shall report to the Joint
32 Legislative Education Oversight Committee by January 15, 2010, on its implementation of this
33 section.
34

35 NO PAY DECREASE FOR TEACHERS WHO BECOME ASSISTANT PRINCIPALS

36 **SECTION 7.22.(a)** G.S. 115C-285(a) is amended by adding a new subdivision to
37 read:

38 "**§ 115C-285. Salary.**

39 (a) Principals and supervisors shall be paid promptly when their salaries are due
40 provided the legal requirements for their employment and service have been met. All principals
41 and supervisors employed by any local school administrative unit who are to be paid from local
42 funds shall be paid promptly as provided by law and as State-allotted principals and supervisors
43 are paid.

44 Principals and supervisors paid from State funds shall be paid as follows:

45 ...

- 46 (8) A teacher who becomes an assistant principal without a break in service
47 shall be paid, on a monthly basis, at least as much as he or she would earn as
48 a teacher employed by that local school administrative unit."

49 **SECTION 7.22.(b)** This section becomes effective July 1, 2009, and applies to all
50 persons initially employed as assistant principals on or after that date.
51

INCREASE CLASS SIZE

SECTION 7.23. Notwithstanding any other provision of law, the allotment ratios, the maximum class size, and the maximum average class size limits for each grade level in the public schools shall be two students higher beginning with the 2009-2010 school year than they were for the 2008-2009 school year.

It is the intent of the General Assembly that this increase remain in effect for a maximum of two years and that lower class sizes be restored as soon as State revenues make it fiscally responsible to do so.

FUND ONLY ONE SCHOOL SYSTEM PER COUNTY.

SECTION 7.24.(a) Notwithstanding any other provision of law, beginning with the 2010-2011 fiscal year, the State Board of Education shall allot State funds on the basis of only one local school administrative unit per county. To implement this change, the State Board shall change formulas that allot funds on a per local school administrative unit basis to formulas that allot funds on a per county basis. If the amount previously allotted per local school administrative unit was graduated on the basis of average daily membership, the amount allotted per county shall be graduated on the basis of the total average daily membership of all units located in the county.

If a city school administrative unit is located in more than one county, the State Board of Education shall include in each county's average daily membership the average daily membership of the county's students in the city school administrative unit.

If a county contains more than one local school administrative unit, the State Board shall divide the amount allotted on a per county basis between the units on the basis of average daily membership.

SECTION 7.24.(b) This section does not apply to allotments to the Nash-Rocky Mount School Administrative Unit, the Edgecombe County School Administrative Unit, the Cleveland County School Administrative Unit, or the Gaston County School Administrative Unit.

DEPOSIT PUBLIC SCHOOL BUILDING CAPITAL FUNDS INTO STATE PUBLIC SCHOOL FUND

SECTION 7.25. Notwithstanding the provisions of G.S. 115C-546.1(b), the Secretary of Revenue shall not remit any funds for credit to the Public School Building Capital Fund during the 2009-2011 fiscal biennium but shall deposit in the State Public School Fund the funds that would have otherwise been deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b). The Department of Public Instruction may continue to use these funds to support six positions in the School Planning Division.

TEACHERS FOR GEOGRAPHICALLY ISOLATED K-12 SCHOOLS

SECTION 7.26. The State Board of Education shall modify its policy on the allotment of additional classroom teachers to schools containing grades K-12 when consolidation is not feasible due to the geographic isolation of the school. In administering this policy with regard to a school located in a local school administrative unit in which the average daily membership is less than 1.5 per square mile, the State Board of Education shall, at a minimum:

- (1) Allot teachers to the geographically isolated school on the basis of one classroom teacher per grade level; and
- (2) Allot teachers to the remainder of the local school administrative unit under the regular teacher allotment formula.

1 The State Board of Education may allot additional teachers to the local school administrative
2 unit if demographic conditions warrant.

4 **ENSURE ACCESS TO THE EVAAS SYSTEM**

5 **SECTION 7.27.** The State Board of Education shall use funds appropriated to the
6 State Public School Fund for the 2009-2011 fiscal biennium to ensure that all local school
7 administrative units and charter schools have access to SAS EVAAS (Education Value Added
8 Assessment System).

10 **LOCAL BOARDS MUST INFORM PUBLIC ABOUT SCHOOL REPORT CARDS**

11 **SECTION 7.28.** G.S. 115C-47 is amended by adding a new subdivision to read:
12 "**§ 115C-47. Powers and duties generally.**

13 In addition to the powers and duties designated in G.S. 115C-36, local boards of education
14 shall have the power or duty:

15 ...

16 (53) To Inform the Public About the North Carolina School Report Cards Issued
17 by the State Board of Education. – Each local board of education shall
18 ensure that the report card issued for it by the State Board of Education
19 receives wide distribution to the local press or otherwise."

21 **PLAN FOR STATEWIDE MOTOR COACH PERMIT**

22 **SECTION 7.29.(a)** The State Board of Education, in conjunction with the Division
23 of Motor Vehicles, shall develop a plan for a Statewide permit for commercial motor coach
24 companies that seek to contract with local school systems to transport students, school
25 personnel, and other persons authorized by the school system on school-sponsored trips. The
26 purpose of the permit shall be (i) to ensure student safety, (ii) to ensure safe operations by
27 motor coach companies, (iii) to minimize paperwork, (iv) to minimize visits to the motor coach
28 companies by local school systems, and (v) to minimize the need for motor coach companies to
29 respond to multiple requests for information from multiple local school systems.

30 **SECTION 7.29.(b)** In developing the plan for a permit, the State Board of
31 Education and the Division of Motor Vehicles shall consult with the North Carolina School
32 Boards Association, the State Highway Patrol, the North Carolina Pupil Transportation
33 Association, the North Carolina Motor Coach Association, the Federal Motor Carrier Safety
34 Administration, and other interested parties.

35 **SECTION 7.29.(c)** The components of the plan shall include, but not be limited to,
36 all of the following:

- 37 (1) Scope of the permit.
- 38 (2) Standards for issuing the permit.
- 39 (3) Duration of the permit.
- 40 (4) Process for required inspections.
- 41 (5) Entity to conduct required inspections.
- 42 (6) Conditions for revoking the permit.
- 43 (7) Renewal process.
- 44 (8) Schedule of fees to cover the cost of implementation and administration.
- 45 (9) Application form and other required documentation.
- 46 (10) Dissemination of current permit holders to school systems.
- 47 (11) Estimate of costs to implement and number of new positions required.
- 48 (12) Impact on motor coach companies that have interstate operations.
- 49 (13) Other related issues.

50 **SECTION 7.29.(d)** The State Board of Education and the Division of Motor
51 Vehicles shall consult on the proposed plan to the Joint Legislative Commission on

1 Governmental Operations and to the Fiscal Research Division by January 1, 2010. Before the
2 plan is implemented, the Commission shall make any recommendations, including proposed
3 legislation, to the 2010 General Assembly.
4

5 PART VIII. COMMUNITY COLLEGES

7 COMMUNITY COLLEGE FACULTY SALARY PLAN

8 SECTION 8.1.(a)

9 (1) It is the intent of the General Assembly to encourage community colleges to
10 make faculty salaries a priority and to reward colleges that have taken steps
11 to achieve the national average community collage faculty salary, therefore:

12 a. If the average faculty salary at a community college is one hundred
13 percent (100%) or more of the national average community college
14 faculty salary, the college may transfer up to eight percent (8%) of
15 the State funds allocated to it for faculty salaries.

16 b. If the average faculty salary at a community college is at least
17 ninety-five percent (95%) but less than one hundred percent (100%)
18 of the national average community college faculty salary, the college
19 may transfer up to six percent (6%) of the State funds allocated to it
20 for faculty salaries.

21 c. If the average faculty salary at a community college is at least ninety
22 percent (90%) but less than ninety-five percent (95%) of the national
23 average community college faculty salary, the college may transfer
24 up to five percent (5%) of the State funds allocated to it for faculty
25 salaries.

26 d. If the average faculty salary at a community college is at least
27 eighty-five percent (85%) but less than ninety percent (90%) of the
28 national average community college faculty salary, the college may
29 transfer up to three percent (3%) of the State funds allocated to it for
30 faculty salaries.

31 e. If the average faculty salary at a community college is eighty-five
32 percent (85%) or less of the national average community college
33 faculty salary, the college may transfer up to two percent (2%) of the
34 State funds allocated to it for faculty salaries.

35 Except as provided by subdivision (2) of this subsection, a community
36 college shall not transfer a greater percentage of the State funds allocated to
37 it for faculty salaries than is authorized by this subsection.

38 (2) With the approval of the State Board of Community Colleges, a community
39 college at which the average faculty salary is eighty-five percent (85%) or
40 less of the national average may transfer a greater percentage of the State
41 funds allocated to it for faculty salaries than is authorized by sub-subdivision
42 e. of subdivision (1) of this subsection. The State Board shall approve the
43 transfer only for purposes that directly affect student services.

44 The State Board of Community Colleges shall adopt guidelines to
45 implement the provisions of this subdivision.

46 (3) A local community college may use all State funds allocated to it except for
47 Literacy Funds and Funds for Customized Training to increase faculty
48 salaries.

49 SECTION 8.1.(b) As used in this section:

50 (1) "Average faculty salary at a community college" means the total nine-month
51 salary from all sources of all nine-month, full-time, curriculum faculty at the

1 college, as determined by the North Carolina Community College System on
2 October 1 of each year.

- 3 (2) "National average community college faculty salary" means the nine-month,
4 full-time, curriculum salary average, as published by the Integrated
5 Postsecondary Education Data System (IPEDS), for the most recent year for
6 which data are available.

7 **SECTION 8.1.(c)** The State Board of Community Colleges shall adopt guidelines
8 to implement the provisions of this section.

9 10 **USE OF BASIC SKILLS FUNDS**

11 **SECTION 8.2.** Notwithstanding any other provision of law, a local community
12 college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board
13 of Community Colleges to procure instructional technology for literacy labs. This technology
14 may include computers, instructional software and software licenses, scanners for testing, and
15 classroom projection equipment.

16 17 **FUNDS FOR CAMPUS SECURITY**

18 **SECTION 8.3.** Notwithstanding G.S. 115D-32 or any other provision of law, a
19 community college may use up to two percent (2%) of the noninstructional State funds
20 allocated to it through the institutional support allotment for the 2009-2010 and 2010-2011
21 fiscal years for campus security. This may include the hiring of personnel, contracted
22 professional services, surveillance cameras, call boxes, alert systems, and other
23 equipment-related expenditures.

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

26 27 **FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS**

28 **SECTION 8.4.** G.S. 115D-40.1(c) reads as rewritten:

29 "(c) Administration of Program. – The State Board shall adopt rules and policies for the
30 disbursement of the financial assistance provided in this section. Degree, diploma, and
31 certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be
32 eligible for financial assistance. The State Board may contract with the State Education
33 Assistance Authority for administration of these financial assistance funds. These funds shall
34 not revert at the end of each fiscal year but shall remain available until expended for
35 need-based financial assistance.

36 The State Board shall ensure that at least one counselor is available at each college to
37 inform students about federal programs and funds available to assist community college
38 students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax
39 Credits and to actively encourage students to utilize these federal programs and funds. [The](#)
40 [interest earned on the funds provided in this section may be used to support the costs of](#)
41 [administering the Community College Grant Program.](#)"

42 43 **CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS** 44 **BIOTECHNOLOGY TRAINING FUNDS**

45 **SECTION 8.5.(a)** Funds appropriated in S.L. 2006-66, S.L. 2007-323, and S.L.
46 2008-103 for the Rowan-Cabarrus Community College Biotechnology Training Center and
47 Greenhouse at the North Carolina Research Campus in Kannapolis shall not revert, but shall
48 remain available until expended.

49 **SECTION 8.5.(b)** This section becomes effective June 30, 2009.

50 51 **LEARN AND EARN ONLINE FUNDS**

1 **SECTION 8.6.(a)** Funds reimbursed to the Community College System for
2 full-time equivalent students participating in Learn and Earn Online courses during the
3 2008-2009 and 2009-2010 fiscal years shall not revert at the end of the fiscal year, but shall
4 remain available for expenditure up to 12 months after the close of a fiscal year.

5 **SECTION 8.6.(b)** Community college student enrollments in Learn and Earn
6 Online shall be considered regular budget full-time equivalent in the curriculum enrollment
7 formula regardless of the term during which the instruction is provided. The North Carolina
8 Community College System may only seek reimbursement from the Department of Public
9 Instruction for technology, course fees, and textbooks required for course participation.

10 **SECTION 8.6.(c)** The Office of State Budget and Management shall transfer
11 sufficient funds from the State Public School Fund to the Community Colleges System Office
12 to implement subsection (b) of this section.

13 **SECTION 8.6.(d)** Subsection (a) of this section becomes effective June 30, 2009.

14 15 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

16 **SECTION 8.7.(a)** Funds appropriated in this act to the Community Colleges
17 System Office for the College Information System shall not revert at the end of the 2008-2009
18 fiscal year but shall remain available until expended. These funds may be used to purchase
19 periodic system upgrades.

20 **SECTION 8.7.(b)** Notwithstanding G.S. 143C-6-4, the Community Colleges
21 System Office may, subject to the approval of the Office of State Budget and Management and
22 in consultation with the Office of Information Technology Services, use funds appropriated in
23 this act for the College Information System to create a maximum of three positions if doing so
24 is cost-effective. Personnel positions created pursuant to this subsection shall be dedicated to
25 maintaining and administering information technology and software upgrades to the College
26 Information System.

27 **SECTION 8.7.(c)** Subsection (a) of this section becomes effective July 1, 2009.

28 29 **MODIFY MULTICAMPUS AND OFF CAMPUS CENTER REPORT DATE**

30 **SECTION 8.8.** G.S. 115D-5(o) reads as rewritten:

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

39 40 **REPEAL REPORT ON THE USE OF COMM COLL FACILITIES BY PRIVATE** 41 **BUSINESSES**

42 **SECTION 8.9.** G.S. 115D-5(q) is repealed.

43 44 **MAINTENANCE OF PLANT FLEXIBILITY**

45 **SECTION 8.10.** Notwithstanding any other provision of law, a community college
46 that received State funds for maintenance of plant pursuant to G.S. 115D-31.2 for the
47 2008-2009 fiscal year may use noninstructional State funds allocated to it through the
48 institutional support allotment for maintenance of plant for the 2009-2010 and 2010-2011 fiscal
49 years.

50 The amount of these funds used for the 2009-2010 fiscal year for maintenance of
51 plant shall not exceed the total amount of maintenance of plant funds received for the

1 2008-2009 fiscal year. The amount of these funds used for the 2010-2011 fiscal year for
2 maintenance of plant shall not exceed fifty percent (50%) of the amount of maintenance of
3 plant funds received for the 2008-2009 fiscal year.
4

5 Requested by: Senator

6 **ELIMINATE SOME TUITION WAIVERS**

7 **SECTION 8.11.(a)** G.S. 115D-5(b) reads as rewritten:

8 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
9 curricular courses and of noncurricular extension courses at convenient locations away from
10 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
11 portion of the established regular tuition rate charged a full-time student shall be charged a
12 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
13 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
14 registration fees, to be charged students enrolling in extension courses for which instruction is
15 financed primarily from State funds; provided, however, that the State Board of Community
16 Colleges may provide by general and uniform regulations for waiver of tuition and registration
17 fees for persons not enrolled in elementary or secondary schools taking courses leading to a
18 high school diploma or equivalent certificate, for training courses for volunteer firemen, local
19 fire department personnel, volunteer rescue and lifesaving department personnel, local rescue
20 and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT)
21 members when the REACT team is under contract to a county as an emergency response
22 agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all
23 full-time custodial employees of the Department of Correction, employees of the Department's
24 Division of Community Corrections and employees of the Department of Juvenile Justice and
25 Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and
26 the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in
27 courses conducted under the New and Expanding Industry Program, Customized Training
28 Program, clients of sheltered workshops, clients of adult developmental activity programs,
29 students in Health and Human Services Development Programs, juveniles of any age
30 committed to the Department of Juvenile Justice and Delinquency Prevention by a court of
31 competent jurisdiction, ~~prison inmates~~, members of the North Carolina State Defense Militia as
32 defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General
33 Statutes, and elementary and secondary school employees enrolled in courses in first aid or
34 cardiopulmonary resuscitation (CPR). ~~Provided further, tuition shall be waived for senior~~
35 ~~citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the~~
36 ~~General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be~~
37 ~~waived for all~~

38 (b1) The State Board shall waive tuition and fees for courses taken by high school
39 students at community colleges, including students in early college and middle college high
40 school programs, in accordance with G.S. 115D-20(4) and this section.

41 The State Board also shall waive tuition and fees for persons not enrolled in elementary or
42 secondary schools taking courses leading to a high school diploma or equivalent certificate.

43 **SECTION 8.11.(b)** G.S. 115B-2 reads as rewritten:

44 **"§ 115B-2. Tuition waiver authorized.**

45 (a) The constituent institutions of The University of North Carolina and ~~the community~~
46 ~~colleges as defined in G.S. 115D-2(2)~~ shall permit the following persons to attend classes for
47 credit or noncredit purposes without the required payment of tuition:

- 48 (1) Legal residents of North Carolina who have attained the age of 65.
- 49 (2) Any person who is the survivor of a law enforcement officer, firefighter,
50 volunteer firefighter, or rescue squad worker killed as a direct result of a
51 traumatic injury sustained in the line of duty.

- 1 (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or
 2 rescue squad worker who is permanently and totally disabled as a direct
 3 result of a traumatic injury sustained in the line of duty.
- 4 (4) Any child, if the child is at least 17 years old but not yet 23 years old, whose
 5 parent is a law enforcement officer, firefighter, volunteer firefighter, or
 6 rescue squad worker who is permanently and totally disabled as a direct
 7 result of a traumatic injury sustained in the line of duty. However, a child's
 8 eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48
 9 months, if the child is seeking a baccalaureate degree, or (ii) if the child is
 10 not seeking a baccalaureate degree, the number of months required to
 11 complete the educational program to which the child is applying.
- 12 (5) Any child, if the child (i) is at least 17 years old but not yet 23 years old, (ii)
 13 is a ward of North Carolina or was a ward of the State at the time the child
 14 reached the age of 18, (iii) is a resident of the State; and (iv) is eligible for
 15 services under the Chaffee Education and Training Vouchers Program; but
 16 the waiver shall only be to the extent that there is any tuition still payable
 17 after receipt of other financial aid received by the student.

18 The community colleges as defined in G.S. 115D-2(2) shall permit the persons listed in
 19 subdivisions (2) through (5) of this subsection to attend classes for credit or noncredit purposes
 20 without the required payment of tuition.

21 (b) Persons eligible for the tuition waiver under subsection (a) of this section must meet
 22 admission and other standards considered appropriate by the educational institution. In
 23 addition, the constituent institutions of The University of North Carolina shall accept these
 24 persons only on a space available basis."

25 **SECTION 8.11.(c)** G.S. 115B-5(a) is repealed.

26 CONTINUING EDUCATION FEES

27 **SECTION 8.12.** The fees charged for community college continuing education
 28 courses shall be based on the number of hours of class time. The fees shall be:

29 <u>Class Hours</u>	30 <u>Cost</u>
31 1-20	\$65.00;
32 21-50	\$120.00;
33 51-100+	\$175.00.

34 CONSOLIDATE NURSING AND ALLIED HEALTH ALLOTMENTS

35 **SECTION 8.13.** The State Board of Community Colleges shall consolidate the
 36 Nursing categorical allotment into the Allied Health categorical allotment before distributing
 37 funds appropriated in this act. These funds shall be awarded to community colleges based on
 38 the full-time equivalent (FTE) enrollment in allied health programs.
 39

40 CUSTOMIZED TRAINING PROGRAM

41 **SECTION 8.14.(a)** Funds appropriated in this act for the Customized Training
 42 Program that unexpended and unencumbered on June 30, 2010, may, subject to cash
 43 availability and the approval of the Office of State Budget and Management, be carried forward
 44 into the 2010-2011 fiscal year for equipment purchases. These funds shall be distributed
 45 through the Educational Equipment Reserve.

46 **SECTION 8.14.(b)** Projects that create or retain jobs in North Carolina shall
 47 receive first priority for funds appropriated for the Customized Training Program.

48 **SECTION 8.14.(c)** G.S. 115D-5.1(f) is amended by adding a new subsection to
 49 read:
 50

1 (f) The State Board shall report on an annual basis to the Joint Legislative Education
2 Oversight Committee on:

3 ...

4 (1a) The types of services sought by the company, whether for new, expanding,
5 or existing industry."

6
7 **COMMUNITY COLLEGE FINANCIAL ASSISTANCE FUND BALANCE SHALL BE**
8 **USED TO OFFER NEED-BASED AID**

9 **SECTION 8.15.** The balance remaining in Budget Code 66801, Fund 6102 (CCS
10 Financial Assistance) shall be used in the 2009-2010 fiscal year to offer need-based assistance
11 to displaced workers and qualified students. This balance has accumulated due to financial aid
12 refunds received from students in fiscal year 2008-2009 and prior fiscal years.

13
14 Requested by: Senators Malone, Stevens

15 **NORTH CAROLINA MILITARY BUSINESS CENTER**

16 **SECTION 8.16.** The funds appropriated in this act to the Community Colleges
17 System Office for the NC Military Business Center shall be used for the continued operations
18 of the NC Military Business Center. The Military Business Center shall provide services to
19 residents and businesses throughout the State. The purpose of the business center is to serve as
20 a coordinator and facilitator for small- and medium-sized businesses throughout the State
21 seeking to win and complete federal contracts, with a focus on military-related contracts.
22 Activities of the business center shall include:

- 23 (1) Training and mentoring eligible businesses on effectively marketing their
24 products and services to military and other federal clients and contracting
25 offices.
26 (2) Assisting eligible businesses with any required accreditations and
27 qualifications for government contracting.
28 (3) Teaching eligible businesses about federal set-aside programs and how to
29 take advantage of these programs directly or through partnering with other
30 eligible businesses.
31 (4) Training and assisting clients with the registration, proposal development,
32 and bidding processes related to military and other federal contracts.
33 (5) Training eligible businesses on legal and regulatory compliance.
34 (6) Designing and implementing mentoring programs to facilitate the
35 development of interrelationships between eligible businesses.
36 (7) Forecasting the need for and assisting eligible businesses in obtaining
37 advanced certifications and accreditations and advanced manufacturing
38 skills and technologies.
39 (8) Working with Small Business Centers throughout the State to carry out these
40 activities on a statewide basis.
41 (9) The maintenance of an Internet-based system to match the knowledge, skills,
42 and abilities of active-duty military personnel, veterans, and their families
43 throughout the State with the needs of North Carolina businesses.
44 (10) The study of community resources and existing business capacity to meet
45 the current and future needs of the military and the development of proposals
46 for further developing community resources and developing or recruiting
47 new businesses to meet those needs.
48 (11) The marketing of the services provided by the Military Business Center.

49
50 **PART IX. UNIVERSITIES**
51

USE OF ESCHEAT FUNDS 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 (SEAA) 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 required in G.S. 116B-6(f).

SECTION 9.1.(b) The State Education Assistance Authority 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 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 2010-2011 fiscal year 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 three 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) The State Education Assistance Authority shall transfer to the Escheat Fund the balance of any monies appropriated by this section that are not disbursed for need-based student financial aid; however, the State Education Assistance Authority may retain the interest on those monies that is paid to the State Education Assistance Authority at the beginning of the 2009-2010 fiscal year and at the beginning of the 2010-2011 fiscal year.

THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND (EARN)

SECTION 9.2.(a) Of the funds appropriated by this act 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 shall be allocated to the Education Access Rewards North Carolina Scholars Fund (EARN).

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

1 fiscal year to be allocated to the Education Access Rewards North Carolina Scholars Fund
2 (EARN).

3 **SECTION 9.2.(c)** The funds appropriated in subsections (a) and (b) of this section
4 shall be used only to fund Education Access Rewards North Carolina Scholars Fund (EARN)
5 grants for academic years beginning on or after July 1, 2009.

6 7 **TRANSFERS OF CASH BALANCES TO THE GENERAL FUND**

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

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

16 17 **TRANSFER FUNDING TO ROANOKE ISLAND COMMISSION FOR PERFORMING** 18 **ARTS**

19 **SECTION 9.4.** The General Assembly finds that in order to expand opportunities
20 for students involved in the performing arts, existing funding for the Summer Institute on
21 Roanoke Island should not be allocated to one specific University of North Carolina institution,
22 but instead be allocated directly to the Roanoke Island Commission, so that any interested
23 University of North Carolina institution may have the opportunity to participate in summer arts
24 enrichment and education programs. Therefore, of the funds appropriated by this act to the
25 Board of Governors of The University of North Carolina and allocated to the Summer Institute
26 of the North Carolina School of the Arts on Roanoke Island program for the 2009-2011 fiscal
27 biennium, the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646)
28 shall be transferred for the 2009-2010 fiscal year to the Roanoke Island Commission and the
29 sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be
30 transferred for the 2010-2011 fiscal year to the Roanoke Island Commission. The Roanoke
31 Island Commission may use these funds to contract with any of the constituent institutions of
32 The University of North Carolina System to provide music and drama students an education in
33 a professional performing environment while providing a public service to the State.

34 35 **UNC CENTER FOR ALCOHOL STUDIES**

36 **SECTION 9.5.(a)** G.S. 20-7(i1) reads as rewritten:

37 "(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to
38 the provisions of this Chapter, other than ~~G.S. 20-17(2), G.S. 20-17(a)(2)~~ shall pay a restoration
39 fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under
40 ~~G.S. 20-17(2) G.S. 20-17(a)(2)~~ shall pay a restoration fee of ~~seventy-five dollars (\$75.00) until~~
41 ~~the end of the fiscal year in which the cumulative total amount of fees deposited under this~~
42 ~~subsection in the General Fund exceeds ten million dollars (\$10,000,000), and shall pay a~~
43 ~~restoration fee of fifty dollars (\$50.00) thereafter. seventy-five dollars (\$75.00).~~ The fee shall
44 be paid to the Division prior to the issuance to such person of a new drivers license or the
45 restoration of the drivers license. The restoration fee shall be paid to the Division in addition to
46 any and all fees which may be provided by law. This restoration fee shall not be required from
47 any licensee whose license was revoked or voluntarily surrendered for medical or health
48 reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The
49 fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the seventy-five-dollar (\$75.00)
50 fee, shall be deposited in the Highway Fund. The remaining twenty-five dollars (\$25.00) of the
51 seventy-five-dollar (\$75.00) fee shall be deposited in the General Fund of the State. The Office

1 of State Budget and Management ~~shall certify to the Department of Transportation and the~~
2 ~~General Assembly when the cumulative total amount of fees deposited in the General Fund~~
3 ~~under this subsection exceeds ten million dollars (\$10,000,000), and~~ shall annually report to the
4 General Assembly the amount of fees deposited in the General Fund under this subsection.

5 It is the intent of the General Assembly to annually appropriate from the funds deposited in
6 the General Fund under this subsection the sum of five hundred thousand dollars (\$500,000) to
7 the Board of Governors of The University of North Carolina to be used for the operating
8 expenses of the Bowles Center for Alcohol Studies Endowment at The the University of North
9 Carolina at Chapel Hill, but not to exceed this cumulative total of ten million dollars
10 (\$10,000,000); Hill."

11 **SECTION 9.5.(b)** Of the funds appropriated by this act to the Board of Governors
12 of The University of North Carolina the sum of five hundred thousand dollars (\$500,000) for
13 the 2009-2010 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the
14 2010-2011 fiscal year shall be used for the operating expenses of the Bowles Center for
15 Alcohol Studies at the University of North Carolina at Chapel Hill.

16
17 **REPEAL FULL TUITION GRANT FOR GRADUATES OF NORTH CAROLINA**
18 **SCHOOL OF SCIENCE AND MATHEMATICS WHO ATTEND A STATE**
19 **UNIVERSITY**

20 **SECTION 9.6.(a)** G.S. 116-238.1(a) reads as rewritten:

21 "(a) There is granted to each State resident who graduates from the North Carolina
22 School of Science and Mathematics and who enrolls as a full-time student in a constituent
23 institution of The University of North Carolina a sum to be determined by the General
24 Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and
25 shall cover the tuition cost at the constituent institution in which the student is enrolled. The
26 tuition grant shall be distributed to the student as provided by this section. The grant provided
27 by this section is only available to a student enrolled at the North Carolina School of Science
28 and Mathematics for the 2007-2008 academic year or earlier."

29 **SECTION 9.6.(b)** Effective July 1, 2013, G.S. 116-238.1, as amended by this
30 section, is repealed.

31
32 **CLOSING THE ACHIEVEMENT GAP/GRANTS**

33 **SECTION 9.7.(a)** Funds appropriated by this act for the 2009-2010 fiscal year and
34 for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina
35 and allocated to the North Carolina Historically Minority Colleges and Universities Consortium
36 (HMCUC) for "Closing the Achievement Gap," shall be used for the sole purpose of supporting
37 the operations and program activities of the HMCUC. These funds shall be used by the
38 HMCUC members for the public purposes of developing and implementing after-school
39 programs designed to close the academic achievement gap and improving the academic
40 performance of youth at risk of academic failure and school dropout. The HMCUC may also
41 allocate funds to a community-based and faith-based organization that is located in close
42 proximity to the HMCUC member institution for the public purposes stated in this section.

43 **SECTION 9.7.(b)** The North Carolina Historically Minority Colleges and
44 Universities Consortium shall report to the Joint Legislative Education Oversight Committee
45 and to the Fiscal Research Division by May 1 of each year, regarding the number of programs
46 funded by the Consortium to Close the Achievement Gap, the location and program structure of
47 the programs, the amount allocated to the program, and purposes for which the funds were
48 awarded, the cost of administering and managing the funds, and any other information
49 requested by the Committee or Fiscal Research Division. The grants awarded pursuant to this
50 section shall also include as a term of the grant that the recipient of the grant report to the Joint
51 Legislative Education Oversight Committee and to the Fiscal Research Division regarding the

1 amount of the grant received, the program and purposes for which the grant was requested, the
2 methodology used to implement the grant program and purposes, the results of the program
3 funded by the grant, and any other information requested by the Joint Legislative Education
4 Oversight Committee and the Fiscal Research Division.

6 **AMEND LEGISLATIVE TUITION GRANT FOR PART-TIME STUDENTS**

7 **SECTION 9.8.(a)** G.S. 116-21.2 reads as rewritten:

8 "**§ 116-21.2. Legislative tuition grants to aid students and licensure students attending**
9 **private institutions of higher education.**

10 (a) Grants for Students. – In addition to any funds appropriated pursuant to G.S. 116-19
11 and in addition to all other financial assistance made available to institutions, or to persons
12 attending these institutions, there is granted to each North Carolina undergraduate student
13 attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the
14 General Assembly for each academic year which shall be distributed to the undergraduate
15 student as provided by this subsection. A full-time North Carolina undergraduate student shall
16 be awarded the full amount of the tuition grant provided by this section. A part-time North
17 Carolina undergraduate student who is enrolled to take at least six-nine hours of academic
18 credit per semester shall be awarded a tuition grant in an amount that is calculated on a pro rata
19 basis.

20 (a1) Grants for Licensure Students. – The legislative tuition grant provided by this
21 section shall also be granted to each full-time licensure student who is enrolled in a program
22 intended to result in a license in teaching or nursing at an approved institution. The legislative
23 tuition grant provided by this section shall be awarded on a pro rata basis to any part-time
24 licensure student who is enrolled to take at least six-nine hours of undergraduate academic
25 credit per semester in a program intended to result in a license in teaching or nursing at an
26 approved institution. The legislative tuition grant and prorated legislative tuition grant
27 authorized under this subsection shall be paid for undergraduate courses only. If a course is
28 required for licensure, but is designated as both an undergraduate and graduate course, for
29 purposes of this subsection, the course shall be considered an undergraduate course.

30 (b) Administration of Grants. – The tuition grants provided for in this section shall be
31 administered by the State Education Assistance Authority pursuant to rules adopted by the
32 State Education Assistance Authority not inconsistent with this section. The State Education
33 Assistance Authority shall not approve any grant until it receives proper certification from an
34 approved institution that the student or licensure student applying for the grant is eligible. Upon
35 receipt of the certification, the State Education Assistance Authority shall remit at the times as
36 it prescribes the grant to the approved institution on behalf, and to the credit, of the student or
37 licensure student.

38 (c) Student or Licensure Student Change of Status; Audits. – In the event a full-time
39 student on whose behalf a grant has been paid in accordance with subsection (a) of this section
40 or a full-time licensure student on whose behalf a grant has been paid in accordance with
41 subsection (a1) of this section is not enrolled and carrying a minimum academic load as of the
42 tenth classroom day following the beginning of the school term for which the grant was paid,
43 the institution shall refund the full amount of the grant to the State Education Assistance
44 Authority. If a part-time student on whose behalf a prorated grant has been paid in accordance
45 with subsection (a) of this section or a part-time licensure student on whose behalf a prorated
46 grant has been paid in accordance with subsection (a1) of this section is not enrolled and
47 carrying a minimum academic load of six-nine credit hours per semester in the undergraduate
48 class as of the tenth classroom day following the beginning of the school term for which the
49 grant was paid, the institution shall refund the full amount of the grant to the State Education
50 Assistance Authority. If the matriculated status of a full-time student or a full-time licensure
51 student changes to a matriculated status of part-time student or part-time licensure student by

1 the tenth classroom day following the beginning of the school term for which the grant was
2 paid, the institution shall refund only the difference between the amount of the full-time grant
3 awarded and the amount of the part-time grant that is awarded pursuant to this section. Each
4 approved institution shall be subject to examination by the State Auditor for the purpose of
5 determining whether the institution has properly certified eligibility and enrollment of students
6 and licensure students and credited grants paid on behalf of them.

7 (d) Shortfall. – In the event there are not sufficient funds to provide each eligible
8 student or licensure student with a full or prorated grant as provided by subsection (a) of this
9 section or a full or a prorated grant as provided by subsection (a1) of this section:

10 (1) The Board of Governors of The University of North Carolina, with the
11 approval of the Office of State Budget and Management, may transfer
12 available funds to meet the needs of the programs provided by subsections
13 (a), (a1), and (b) of this section; and

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

17 (e) Reversions. – Any remaining funds shall revert to the General Fund."

18 **SECTION 9.8.(b)** This section applies to academic semesters beginning on or after
19 July 1, 2009.

20 21 **GRADUATE NURSE SCHOLARSHIP PROGRAM FOR FACULTY** 22 **PRODUCTION/REVERT PART OF FUND BALANCE**

23 **SECTION 9.9.** Effective July 1, 2009, the sum of one million dollars (\$1,000,000)
24 shall transfer from the fund balance of the Graduate Nurse Scholarship Program for Faculty
25 Production (also known as Nurse Educators of Tomorrow Scholarship Loan) to the General
26 Fund.

27 28 **INCREASE UNC UNDERGRADUATE TUITION SURCHARGE**

29 **SECTION 9.10.(a)** Subsection (b) of Section 89 of Chapter 321 of the 1993
30 Session Laws as amended by Section 17.10 of Chapter 769 of the 1993 Session Laws reads as
31 rewritten:

32 "(b) The Board of Governors of The University of North Carolina shall ensure that
33 procedures are established that are necessary to impose a ~~twenty five percent (25%)~~ fifty
34 percent (50%) tuition surcharge on students who take more than 140 degree credit hours to
35 complete a baccalaureate degree in a four-year program or more than one hundred ten percent
36 (110%) of the credit hours necessary to complete a baccalaureate degree in any program
37 officially designated by the Board of Governors as a five-year program. The calculation of
38 these credit hours taken at a constituent institution or accepted for transfer shall exclude hours
39 earned through the College Board's Advanced Placement or CLEP examinations, through
40 institutional advanced placement or course validation, or through summer term or extension
41 programs. No surcharge shall be imposed on any student who exceeds the degree credit hour
42 limits within the equivalent of four academic years of regular term enrollment, or within five
43 academic years of regular term enrollment in a degree program officially designated by the
44 Board of Governors as a five-year program. ~~The Board shall report to the Joint Legislative~~
45 ~~Education Oversight Committee by April 1, 1994, on its recommendations for implementing~~
46 ~~this surcharge."~~

47 **SECTION 9.10.(b)** The Board of Governors shall report to the Joint Legislative
48 Education Oversight Committee by September 1, 2009, regarding the implementation of the
49 increased surcharge.

1 **SECTION 9.10.(c)** This section applies to all students who will be sophomores or
2 freshman in the 2009-2010 fall academic semester and to all students who are new
3 undergraduates on or after the effective date of this act.
4

5 **ENROLLMENT GROWTH REPORTING**

6 **SECTION 9.11.** G.S. 116-30.7 reads as rewritten:

7 "**§ 116-30.7. Biennial projection of enrollment growth for The University of North**
8 **Carolina.**

9 By ~~September 1~~October 15 of each even-numbered year, the General Administration of The
10 University of North Carolina shall provide to the Joint Education Legislative Oversight
11 Committee and to the Office of State Budget and Management a projection of the total student
12 enrollment in The University of North Carolina that is anticipated for the next biennium. The
13 enrollment projection shall be divided into the following categories and shall include the
14 projected growth for each year of the biennium in each category at each of the constituent
15 institutions: undergraduate students, graduate students (students earning master's and doctoral
16 degrees), ~~first year~~first professional students, and any other categories deemed appropriate by
17 General Administration. The projection shall also distinguish between on-campus and distance
18 education students. The projections shall be considered by the Director of the Budget when
19 determining the amount the Director proposes to fund as the continuation requirement for the
20 enrollment increase in the university system pursuant to G.S. 143C-3-5(b)."
21

22 **UNC BOARD OF GOVERNORS STUDY AND DEVELOP PLAN TO TRANSFER UNC** 23 **CENTER FOR PUBLIC TELEVISION TO UNC SCHOOL OF THE ARTS**

24 **SECTION 9.12.** The Board of Governors of The University of North Carolina
25 shall study the feasibility of transferring the University of North Carolina Center for Public
26 Television to the University of North Carolina School of the Arts and shall develop a plan to
27 implement such a transfer. The Board of Governors shall report its findings and
28 recommendations along with the plan by March 1, 2010, to the Joint Education Legislative
29 Oversight Committee and to the Chairs of the Senate and House of Representatives
30 Appropriations Subcommittees on Education.
31

32 **NORTH CAROLINA CENTER FOR ADVANCEMENT OF TEACHING** 33 **(NCCAT)/PROPERTY SETTLEMENT IF NCCAT TRANSFERRED FROM UNC** 34 **SYSTEM OR CEASES TO EXIST**

35 **SECTION 9.13.(a)** If the North Carolina Center for the Advancement of Teaching
36 (NCCAT) is transferred from The University of North Carolina to another State government
37 agency or department, then all of the following shall occur:

- 38 (1) The University of North Carolina and Western Carolina University shall
39 both be released and relieved: (i) of any and all responsibilities, duties, and
40 powers related to the administration or management functions of NCCAT,
41 and (ii) of any and all responsibilities and duties arising from any fiduciary
42 relationship existing between Western Carolina University and NCCAT.
- 43 (2) Neither The University of North Carolina nor Western Carolina University
44 shall be the fiscal agent for NCCAT.
- 45 (3) Western Carolina University shall be granted a permanent easement 40 feet
46 in width over and upon the NCCAT campus for the purpose of providing
47 Western Carolina University and its assignees, agents, joint venturers,
48 lessees, partners, and invitees access to that portion of Western Carolina
49 University's campus currently undeveloped and adjacent to NCCAT.
50 Western Carolina University shall use existing roads across the NCCAT

campus, to the extent possible. If any road is required, it shall be built at Western Carolina University's expense.

SECTION 9.13.(b) If the North Carolina Center for Advancement of Teaching ceases to exist as a State agency or entity, or if NCCAT closes its offices and operation in Jackson County, North Carolina, then the following real property in Jackson County shall be transferred to Western Carolina University and become part of Western Carolina University's campus to be used for any purpose, at Western Carolina University's discretion, appropriate to its mission: all land in Jackson County that (i) was used or under the control of NCCAT at the time it ceased to exist or closed its operations and (ii) was transferred to NCCAT from The University of North Carolina, including all improvements located thereon.

COASTAL DEMONSTRATION WIND TURBINES

SECTION 9.14.(a) The University of North Carolina shall continue the coastal sounds wind energy study set forth in Section 9.12 of S.L. 2008-107 and, pursuant to Section 9.12, shall apply for federal grants to continue the study. Funds appropriated by United States Public Law 111-005, the American Recovery and Reinvestment Act of 2009 (the Federal Act), for renewable energy and allocated to the State of North Carolina shall be used for the development, design, and construction of at least three demonstration wind turbines and necessary support facilities in the sounds or off the coast of North Carolina, and the Director of the Budget shall ensure any available federal funds are secured. The actual placement of the wind turbines and necessary support facilities shall be determined by the coastal sounds wind energy study. The Director of the Budget shall ensure that any available federal funding is secured by the State to construct the wind turbines. The University, in collaboration with the Director of the Budget, shall enter into a contract with a third party by October 1, 2009, to construct, establish, and operate the demonstration turbines and necessary support facilities on or before April 1, 2010.

SECTION 9.14.(b) With respect to the demonstration wind turbines and necessary support facilities authorized by subsection (a) of this section, the facilities authorized under this act shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities. The Department of Environment and Natural Resources is directed to expedite permitting of the project to the extent allowed by law.

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:

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

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

1 paid the one-star county market rate or the rate they charge privately paying
2 parents, whichever is lower.

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

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

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

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

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

19 (2) If it can be demonstrated that the application of the statewide or regional
20 market rate to a county with fewer than 50 children in each age group is
21 lower than the county market rate and would inhibit the ability of the county
22 to purchase child care for low-income children, then the county market rate
23 may be applied.

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

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

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

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

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

47 (1) The child for whom a child care subsidy is sought is receiving child
48 protective services or foster care services.

49 (2) The child for whom a child care subsidy is sought is developmentally
50 delayed or at risk of being developmentally delayed.

- 1 (3) The child for whom a child care subsidy is sought is a citizen of the United
2 States.
3

4 **CHILD CARE ALLOCATION FORMULA**

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

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

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

21 **SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department
22 of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in
23 federal block grant funds and State funds appropriated for fiscal years 2009-2010 and
24 2010-2011 for child care services. These funds shall be allocated to prevent termination of
25 child care services. Funds appropriated for specific purposes, including market rate
26 adjustments, may also be allocated by the Department separately from the allocation formula
27 described in subsection (a) of this section.
28

29 **CHILD CARE FUNDS MATCHING REQUIREMENT**

30 **SECTION 10.3.** No local matching funds may be required by the Department of
31 Health and Human Services as a condition of any locality's receiving its initial allocation of
32 child care funds appropriated by this act unless federal law requires a match. If the Department
33 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing
34 agencies beyond their initial allocation, local purchasing agencies must provide a twenty
35 percent (20%) local match to receive the reallocated funds. Matching requirements shall not
36 apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).
37

38 **FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS**

39 **SECTION 10.4.** The Division of Child Development of the Department of Health
40 and Human Services shall adopt temporary policies that facilitate and expedite the prudent
41 expenditure of child care subsidy funds. These policies will address the following:

- 42 (1) Permitting the local purchasing agencies to issue time-limited vouchers to
43 assist counties in managing onetime, nonrecurring subsidy funding.
44 (2) Extending the current 30/60 day job search policy to six months when a
45 recipient experiences a loss of employment.
46 (3) Providing an upfront job search period of six months for former recipients
47 who have lost employment since October 1, 2008.
48 (4) Providing a job search period of six months for recipients that complete
49 school and are entering the job market.
50 (5) Notwithstanding any other provision of law, extending the 24-month
51 education time limit for an additional 12 months for a child care recipient

1 who has lost a job since October 1, 2008, or otherwise needs additional
2 training to enhance his or her marketable skills for job placement due to the
3 economic downturn and who has depleted his or her 24-month allowable
4 education time.

- 5 (6) Lowering the number of hours a parent must be working in order to be
6 eligible for subsidy to assist parents who are continuing to work but at
7 reduced hours.

9 **CHILD CARE REVOLVING LOAN**

10 **SECTION 10.5.** Notwithstanding any law to the contrary, funds budgeted for the
11 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution
12 contracted to operate the Fund. The principal and any income to the Fund may be used to make
13 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's
14 cost of operating the Fund, or pay the Department's cost of administering the program.

16 **CHILD CARE MARKET RATE ADJUSTMENTS**

17 **SECTION 10.6.** Not later than October 1, 2009, the Department shall implement
18 an adjustment to child care market rates, by region, based upon the 2009 Child Care Market
19 Rate Study.

21 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 22 **ENHANCEMENTS**

23 **SECTION 10.7.(a)** Administrative costs shall be equivalent to, on an average
24 statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide
25 allocation to all local partnerships. For purposes of this subsection, administrative costs shall
26 include costs associated with partnership oversight, business and financial management,
27 general accounting, human resources, budgeting, purchasing, contracting, and information
28 systems management.

29 **SECTION 10.7.(b)** The North Carolina Partnership for Children, Inc., and all local
30 partnerships shall use competitive bidding practices in contracting for goods and services on
31 contract amounts as follows:

- 32 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
33 specified by a written policy to be developed by the Board of Directors of
34 the North Carolina Partnership for Children, Inc.
35 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen
36 thousand dollars (\$15,000), three written quotes.
37 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than
38 forty thousand dollars (\$40,000), a request for proposal process.
39 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
40 proposal process and advertising in a major newspaper.

41 **SECTION 10.7.(c)** The North Carolina Partnership for Children, Inc., and all local
42 partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the
43 total amount budgeted for the program in each fiscal year of the biennium as follows:
44 contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal
45 to no more than five percent (5%) for a total match requirement of twenty percent (20%) for
46 each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any
47 amount in excess of the required match for a fiscal year in order to meet the match requirement
48 of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to
49 the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for
50 the purpose of the match requirement of this subsection. Volunteer services that qualify as
51 professional services shall be valued at the fair market value of those services. All other

1 volunteer service hours shall be valued at the statewide average wage rate as calculated from
2 data compiled by the Employment Security Commission in the Employment and Wages in
3 North Carolina Annual Report for the most recent period for which data are available.
4 Expenses, including both those paid by cash and in-kind contributions, incurred by other
5 participating non-State entities contracting with the North Carolina Partnership for Children,
6 Inc., or the local partnerships, also may be considered resources available to meet the required
7 private match. In order to qualify to meet the required private match, the expenses shall:

- 8 (1) Be verifiable from the contractor's records.
- 9 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
10 generally accepted accounting principles for nonprofit organizations.
- 11 (3) Not include expenses funded by State funds.
- 12 (4) Be supplemental to and not supplant preexisting resources for related
13 program activities.
- 14 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
15 be necessary and reasonable for the proper and efficient accomplishment of
16 the Program's objectives.
- 17 (6) Be otherwise allowable under federal or State law.
- 18 (7) Be required and described in the contractual agreements approved by the
19 North Carolina Partnership for Children, Inc., or the local partnership.
- 20 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
21 partnership by the contractor in the same manner as reimbursable expenses.

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

29 **SECTION 10.7.(d)** The Department of Health and Human Services shall continue
30 to implement the performance-based evaluation system.

31 **SECTION 10.7.(e)** The Department of Health and Human Services and the North
32 Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early
33 Childhood Education and Development Initiatives for State fiscal years 2009-2010 and
34 2010-2011 shall be administered and distributed in the following manner:

- 35 (1) Capital expenditures are prohibited for fiscal years 2009-2010 and
36 2010-2011. For the purposes of this section, "capital expenditures" means
37 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- 38 (2) Expenditures of State funds for advertising and promotional activities are
39 prohibited for fiscal years 2009-2010 and 2010-2011.

40 **SECTION 10.7.(f)** A county may use the county's allocation of State and federal
41 child care funds to subsidize child care according to the county's Early Childhood Education
42 and Development Initiatives Plan as approved by the North Carolina Partnership for Children,
43 Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child
44 care providers shall, at a minimum, comply with the applicable requirements for State licensure
45 pursuant to Article 7 of Chapter 110 of the General Statutes.

46 **SECTION 10.7.(g)** For fiscal years 2009-2010 and 2010-2011, the local
47 partnerships shall spend an amount for child care subsidies that provides at least fifty-two
48 million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child
49 Care Development Fund and Block Grant match requirement. The North Carolina Partnership
50 for Children, Inc., shall not spend less on child care subsidies than the spending level for fiscal
51 year 2008-2009.

CONTINUE MORE AT FOUR PROGRAM FOR 2009-2010 FISCAL YEAR

SECTION 10.8.(a) The Department of Public Instruction and Division of Child Development of the Department of Health and Human Services 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 through the 2009-2010 fiscal year. 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.

SECTION 10.8.(b) The Office of School Readiness of the Department of Instruction shall reduce the reimbursement rates per slot statewide. The program funding is reduced by forty million dollars (\$40,000,000) recurring beginning for the 2009-2010 fiscal year. The Office of School Readiness, in conjunction with Division of Child Development, shall plan to minimize the number of slots eliminated by reducing the amount of funds paid per slot statewide.

SECTION 10.8.(c) A child whose parent is deployed in the military shall be eligible for participation in the More at Four program.

MORE AT FOUR PROGRAM

SECTION 10.9.(a) The More at Four program is transferred to the Department of Health and Human Services, effective July 1, 2009.

SECTION 10.9.(b) The star rating system currently in place for licensure shall have an additional Plus (+) designation identifying those programs offering a high quality four-year-old classroom. The Plus program shall be administered within the Regulatory Services Section of the Division of Child Development as a high quality four-year-old classroom operated within private child care centers and public schools and will be designated as a Plus program.

SECTION 10.9.(c) The Plus program shall be no less stringent than current standards of the More at Four program in place for the 2008-2009 fiscal year and shall ensure lower ratios of teachers to students and require higher teacher qualifications. The Plus program shall offer a curriculum approved by the Division of Child Development.

SECTION 10.9.(d) Eligibility requirements for the Plus program shall be in accordance with current child care subsidy eligibility requirements as established by the General Assembly. The new reimbursement rate plan shall be in accordance with the child care subsidy program implemented for the 2010-2011 fiscal year.

SECTION 10.9.(e) Public school systems shall be allowed reimbursement through the Division of Child Development for students qualifying for subsidy for its Plus programs. Beginning in school year 2010-2011, the screening process for children applying for subsidy for a Plus program shall occur through the regular subsidy application process in collaboration with local partnerships of the North Carolina Partnership for Children, Inc., county departments of social services, and local school administrative units. Counties are encouraged to develop a single application process for child care subsidy accepted in many locations throughout the county.

SECTION 10.9.(f) Parent payments for the Plus program shall be in accordance with child care subsidy rules adopted by the Division of Child Development for the 2010-2011 fiscal year.

SECTION 10.9.(g) On or before December 1, 2009, the Division of Child Development shall report on the star-rated system and the incorporation of the Plus program.

1 The report will include an analysis of the star-rated system and identify the standards for each
 2 and the differences between the various levels.

3
 4 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL**
 5 **SERVICES**

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

11
 12 **INCREASE CHILD CARE LICENSING FEES FOR CHILD CARE FACILITIES**

13 **SECTION 10.11.** G.S. 110-90(1a) reads as rewritten:

14 "**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

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

17 ...

18 (1a) To establish a fee for the licensing of child care ~~centers-facilities~~. The fee
 19 does not apply to a religious-sponsored child care ~~center-facility~~ operated
 20 pursuant to a letter of compliance. The amount of the fee may not exceed the
 21 amount listed in this subdivision.

Capacity of CenterFacility	Maximum Fee
12 or fewer children	\$ 35.00 \$52.00
13-50 children	\$125.00 \$187.00
51-100 children	\$250.00 \$375.00
101 or more children	\$400.00 \$600.00

27"

28
 29 **MENTAL HEALTH CHANGES**

30 **SECTION 10.12.(a)** For the purpose of mitigating cash flow problems that many
 31 non-single-stream local management entities (LMEs) experience at the beginning of each fiscal
 32 year, the Department of Health and Human Services, Division of Mental Health,
 33 Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method
 34 by which allocations of service dollars are distributed to each non-single-stream LME. To this
 35 end, the allocations shall be adjusted such that at the beginning of the fiscal year the
 36 Department shall distribute not less than one-twelfth of the LME's continuation allocation and
 37 subtract the amount of the adjusted distribution from the LME's total reimbursements for the
 38 fiscal year.

39 **SECTION 10.12.(b)** Onetime funds appropriated for the Dorothea Dix Hospital
 40 overflow unit shall be used to support the temporary operation of the hospital unit on the
 41 Dorothea Dix campus.

42 **SECTION 10.12.(c)** The Department shall evaluate the need to continue the
 43 temporary operation of the hospital unit for one additional year and provide a recommendation
 44 to the Governor no later than February 15, 2010. Notwithstanding any other provision of law
 45 to the contrary, the Office of State Budget and Management shall establish the positions for the
 46 hospital unit on the Dorothea Dix campus as time-limited positions.

47 **SECTION 10.12.(d)** Of the funds appropriated in this act to the Department of
 48 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
 49 Substance Abuse Services, the sum of twenty million one hundred twenty-one thousand six
 50 hundred forty-four dollars (\$20,121,644) for the 2009-2010 fiscal year and the sum of twenty
 51 million one hundred twenty-one thousand six hundred forty-four dollars (\$20,121,644) for the

1 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or
2 bed days. These beds or bed days shall be distributed across the State according to need as
3 determined by the Department. The Department shall enter into contracts with the LMEs and
4 community hospitals for the management of these beds or bed days. Local inpatient psychiatric
5 beds or bed days shall be managed and controlled by the LME, including the determination of
6 which local or State hospital the individual should be admitted to pursuant to an involuntary
7 commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide
8 reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse
9 Services to pay for services authorized by the LMEs and billed by the hospitals through the
10 LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt
11 of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt
12 of payment from the Division. If the Department determines (i) that an LME is not effectively
13 managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days
14 in the local hospital not being utilized while demand for services at the State psychiatric
15 hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment
16 provisions of this subsection, the Department may contract with another LME to manage the
17 beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the
18 hospital directly. The Department shall develop reporting requirements for LMEs regarding
19 the utilization of the beds or bed days. Funds appropriated in this section for the purchase of
20 local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed
21 days not currently funded by or through LMEs and shall not be used to supplant other funds
22 available or otherwise appropriated for the purchase of psychiatric inpatient services under
23 contract with community hospitals, including beds or bed days being purchased through
24 Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2010,
25 the Department shall report to the House of Representatives Appropriations Subcommittee on
26 Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental
27 Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
28 Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from
29 existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using
30 funds appropriated under this subsection.

31 **SECTION 10.12.(e)** The Secretary of the Department of Health and Human
32 Services shall not take any action prior to January 1, 2010, that would result in the merger or
33 consolidation of LMEs operating on January 1, 2008, or that would establish consortia or
34 regional arrangements for the same purpose, except that LMEs that do not meet the catchment
35 area requirements of G.S. 122C-115 as of January 1, 2010, may initiate, continue, or implement
36 the LMEs' merger or consolidation plans to overcome noncompliance with G.S. 122C-115.
37 This subsection does not prohibit LME's from voluntarily merging if they are contiguous or
38 consolidating administrative functions.

39 **SECTION 10.12.(f)** Of the funds appropriated in this act to the Department of
40 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
41 Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred
42 fifty-five thousand dollars (\$5,755,000) shall be distributed to LMEs to support 30 mobile
43 crisis teams. The new mobile crisis units shall be distributed over the State according to need
44 as determined by the Department.

45
46 **REENACT 2007 SPECIAL PROVISION ON COLLABORATION ON**
47 **SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

48 **SECTION 10.13.** Section 10.9 of S.L. 2007-323 is reenacted for the 2009-2011
49 fiscal biennium.

50
51 **CLOSURE OF WRIGHT AND WHITAKER SCHOOLS**

1 **SECTION 10.14.** The Department of Health and Human Services, Division of
2 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall close the
3 Wright School and the Whitaker School, effective December 31, 2009.

4 The Division shall prepare a transition plan for each student currently attending
5 these schools, which shall include assisting in the location of community services for the
6 student, working with the public school system in preparing or updating the student's
7 individualized education plan, and working with the local management entity (LME) to ensure
8 that the needs of the student are met. The LME shall conduct a six-month follow-up on each of
9 these students.

10 The Division shall report on student transitions, student participation in any
11 community or residential programs, and student progress six months after the school closures.
12 The Division shall submit the report to the Senate Appropriations Committee on Health and
13 Human Services, the House of Representatives Appropriations Subcommittee on Health and
14 Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental
15 Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than
16 August 30, 2010.

17 The Department shall ensure that all possible measures are taken to provide a State
18 job for employees of these schools.

19
20 **SUBSTANCE ABUSE TASK FORCE RECOMMENDATIONS/AVAILABILITY OF**
21 **SUBSTANCE ABUSE TREATMENT**

22 **SECTION 10.15.(a)** Of the funds appropriated in this act to the Department of
23 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
24 Substance Abuse Services, the sum of one million dollars (\$1,000,000) shall be used to
25 implement one or more priority recommendations of the North Carolina Institute of Medicine
26 (NCIOM) Substance Abuse Task Force, which include:

- 27 (1) Development of a comprehensive substance abuse prevention plan for use at
28 the State and local levels.
- 29 (2) Providing funding for the establishment of six pilot projects to implement
30 county or multicounty comprehensive prevention plans.
- 31 (3) Supporting efforts to reduce high-risk drinking on college campuses.
- 32 (4) Development of a pilot program to provide chronic disease management
33 services to substance abuse clients and former clients. The purpose of the
34 pilot is to decrease the number of short-term hospital admissions and to
35 provide discharge planning and follow-up to reduce substance abuse client
36 recidivism.
- 37 (5) Educating and encouraging health care professionals to use the screening,
38 brief intervention, and referral to treatment (SBIRT) model promoted by the
39 federal government.

40 **SECTION 10.15.(b)** Consistent with G.S. 122C-2, the General Assembly strongly
41 encourages Local Management Entities (LMEs) to use a portion of the funds appropriated for
42 substance abuse treatment services to support prevention and education activities.

43 **SECTION 10.15.(c)** An LME may use up to one percent (1%) of funds allocated to
44 it for substance abuse treatment services to provide nominal incentives for consumers who
45 achieve specified treatment benchmarks, in accordance with the federal substance abuse and
46 mental health services administration best practice model entitled Contingency Management.

47 **SECTION 10.15.(d)** In providing treatment and services for adult offenders and
48 increasing the number of Treatment Accountability for Safer Communities (TASC) case
49 managers, local management entities shall consult with TASC to improve offender access to
50 substance abuse treatment and match evidence-based interventions to individual needs at each
51 stage of substance abuse treatment. Special emphasis should be placed on intermediate

1 punishment offenders, community punishment offenders at risk for revocation, and Department
 2 of Correction (DOC) releasees who have completed substance abuse treatment while in
 3 custody.

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

10 **SECTION 10.15.(e)** In providing drug treatment court services, LMEs shall
 11 consult with the local drug treatment court team and shall select a treatment provider that meets
 12 all provider qualification requirements and the drug treatment court's needs. A single treatment
 13 provider may be chosen for non-Medicaid-eligible participants only. A single provider may be
 14 chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in
 15 a single group. During the 52-week drug treatment court program, participants shall receive an
 16 array of treatment and aftercare services that meets the participant's level of need, including
 17 step-down services that support continued recovery.

18 **SECTION 10.15.(f)** Not later than October 1, 2009, the Department of Health and
 19 Human Services shall complete the development of a Uniform Screening Tool (UST) to
 20 determine the mental health of any individual admitted to any long-term care facility. The
 21 Department shall report on the status of UST development on or before January 1, 2010, to the
 22 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and
 23 Substance Abuse Services.

24
 25 **TOTAL QUALITY MANAGEMENT**

26 **SECTION 10.16.** The Secretary of the Department of Health and Human Services
 27 shall implement a Total Quality Management Program in hospitals and other State facilities for
 28 the purpose of providing a high level of customer service by well-trained staff throughout the
 29 organization. The focus of this management approach shall be on meeting customer needs by
 30 providing high-quality services.

31 The Department shall involve staff at all levels of the organization by soliciting
 32 suggestions and input into decision making by managers. The Department shall create staff
 33 committees composed of a representative distribution of rank and file employees, to evaluate
 34 policy changes and identify training opportunities and other necessary improvements.

35 The Department shall submit a report on the status of the Total Quality Management
 36 Program, including any activities associated with its implementation within State facilities, to
 37 the Senate Appropriations Committee on Health and Human Services, the House of
 38 Representatives Appropriations Subcommittee on Health and Human Services, the Joint
 39 Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance
 40 Abuse Services, and the Fiscal Research Division not later than December 1, 2009.

41
 42 **BUDGET REDUCTIONS FOR DIVISION OF MH/DD/SA**

43 **SECTION 10.17.** The Department of Health and Human Services, Division of
 44 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall reduce its
 45 budget in the following areas for the 2009-2010 and 2010-2011 fiscal years:

Facility	Fund Code	FY 2009-2010	FY 2010-2011
Broughton Hospital	4541	\$ (34,220)	
Broughton Hospital	4541		\$ (136,550)
Broughton Hospital	4549	\$ (7,000)	
Longleaf Neuro-Medical	4541	\$ (64,000)	
Longleaf Neuro-Medical	4541	\$ (24,000)	

1	Longleaf Neuro-Medical	4541		\$ (72,500)
2	Black Mountain Neuro-Medical	4541		\$ (25,796)
3	Caswell Developmental Center	4541	\$ (210,632)	
4	Caswell Developmental Center	4541		\$ (320,500)
5	Caswell Developmental Center	4549	\$ (16,500)	
6	Murdoch Center	3210	\$ (14,447)	\$ (14,447)
7	Murdoch Center	4541	\$ (200,750)	
8	Murdoch Center	4541		\$ (93,200)
9	O-Berry Neuro-Medical	4521	\$ (60,702)	\$ (21,102)
10	O-Berry Neuro-Medical	4541	\$ (22,103)	
11	Iverson Riddle Center	3110	\$ (12,153)	\$ (12,153)
12	Walter Jones ADATC	3110	\$ (5,852)	\$ (5,852)
13	Walter Jones ADATC	4541	\$ (24,500)	
14	Walter Jones ADATC	4549	\$ (8,800)	
15				
16	TOTAL REDUCTIONS		\$ (705,659)	\$ (709,100)

17
 18 New purchases of vehicles for the regional maintenance facilities are subject to approval by the
 19 Secretary.

20
 21 **STUDY THE AVAILABILITY OF COMMUNITY MH/DD/SA SERVICES FOR**
 22 **MILITARY FAMILIES**

23 **SECTION 10.18.** Funds appropriated in this act to the Department of Health and
 24 Human Services for North Carolina Institute of Medicine (NCIOM) shall be used to study the
 25 availability of Medicaid and State-funded mental health, developmental disability, and
 26 substance abuse services to active duty, reserve, and veteran members of the military and
 27 National Guard. The study should discuss the current availability of services, the extent of use,
 28 and any gaps in services. The NCIOM shall submit a report of its findings and any
 29 recommended legislation to the Governor's Office, the Joint Legislative Commission on
 30 Governmental Operations, and the Joint Legislative Oversight Committee on Mental Health,
 31 Developmental Disabilities, and Substance Abuse Services by February 15, 2010.

32
 33 **FUNDS FOR LOCAL MANAGEMENT ENTITY (LME) SERVICE GAPS**

34 **SECTION 10.19.** Funds appropriated in this act for mental health services and
 35 supported employment shall be allocated to local management entities such that each local
 36 management entity receives a percentage of the total allocation that is equal to that local
 37 management entity's percentage of the State's total population that is below the federal poverty
 38 level. Funds appropriated to the Department of Health and Human Services for the 2009-2010
 39 and 2010-2011 fiscal years for mental health services, substance abuse services, and crisis
 40 services and allocated based on the poverty level shall continue to be allocated by the
 41 Department to local management entities such that each local management entity receives a
 42 percentage of the total allocation that is equal to that local management entity's percentage of
 43 the State's total population that is below the federal poverty level.

44
 45 **TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED**
 46 **SERVICES TO LOCAL MANAGEMENT ENTITIES**

47 **SECTION 10.20.** Consistent with the findings of the Mercer evaluation of Local
 48 Management Entities (LMEs), the Department of Health and Human Services shall collaborate
 49 with LMEs to enhance their administrative capabilities to assume utilization management
 50 responsibilities for the provision of community-based mental health, developmental disabilities,

1 and substance abuse services. The Department may, with approval of the Office of State
2 Budget and Management, use funds available to implement this section.

4 MENTAL HEALTH TRUST FUND ALLOCATIONS

5 SECTION 10.21. Notwithstanding any other provision of law to the contrary,
6 funds allocated from the Trust Fund for Mental Health, Developmental Disabilities, and
7 Substance Abuse Services and Bridge Funding Needs (Fund) in the 2007 fiscal biennium shall
8 not revert to the Fund nor otherwise be withheld but shall be allocated to those programs for
9 which the funds were originally obligated.

11 VITAL RECORDS FEES

12 SECTION 10.22. G.S. 130A-93.1 reads as rewritten:

13 "§ 130A-93.1. Fees for vital records copies or search; automation fund.

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

15 (1) A fee not to exceed ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) shall be
16 charged for issuing ~~any a first~~ copy of a vital record or for conducting a
17 routine search of the files for the record when no copy is made. A fee of
18 fifteen dollars (\$15.00) shall be charged for each additional certificate copy
19 requested from the same search. When certificates are issued or searches
20 conducted for statewide issuance by local agencies using databases
21 maintained by the State Registrar, the local agency shall charge ~~this fee these~~
22 fees and shall ~~forward five dollars (\$5.00) of this fee~~ retain ten dollars
23 (\$10.00) of these fees to cover local administrative costs and forward the
24 remaining fees to the State Registrar for the purposes established in
25 subsection (b) of this section.

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

31 (2a) The fee for a copy of a computer or microform database shall not exceed the
32 cost to the agency of making and providing the copy.

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

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

42 CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES 43 INITIATIVE

44 SECTION 10.23.(a) Funds appropriated in this act from the General Fund to the
45 Department of Health and Human Services for the Community-Focused Eliminating Health
46 Disparities Initiative (CFEHDI) shall be used to provide grants-in-aid to local public health
47 departments, American Indian tribes, and faith-based and community-based organizations to
48 close the gap in the health status of African-Americans, Hispanics/Latinos, and American
49 Indians as compared to the health status of white persons. These grants shall focus on the use of
50 preventive measures to support healthy lifestyles. The areas of focus on health status shall be

1 infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and
2 homicides and motor vehicle deaths.

3 **SECTION 10.23.(b)** Funds appropriated in this act to the Department of Health
4 and Human Services, Division of Public Health, for the CFEHDI shall be awarded as a
5 grant-in-aid to honor the memory of the following recently deceased members of the General
6 Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and
7 William Martin. These funds shall be used for concerted efforts to address large gaps in health
8 status among North Carolinians who are African-American, as well as disparities among other
9 minority populations in North Carolina.

10 **SECTION 10.23.(c)** The Department of Health and Human Services shall report
11 on the following with respect to funds appropriated to the CFEHDI for the 2009-2010 fiscal
12 year. The report shall address the following:

- 13 (1) Which community programs and local health departments received CFEHDI
14 grants.
- 15 (2) The amount of funding each program or local health department received.
- 16 (3) Which of the minority populations were served by the programs or local
17 health departments.
- 18 (4) Which counties were served by the programs or local health departments.
- 19 (5) What activities were planned and implemented by the programs or local
20 health departments to fulfill the community focus of the CFEHDI program.
- 21 (6) How the activities implemented by the programs or local health departments
22 fulfilled the goal of reducing health disparities among minority populations.

23 The report shall also include specific activities undertaken pursuant to subsection (a)
24 of this section to address large gaps in health status among North Carolinians who are
25 African-American and other minority populations in this State. The Department shall submit
26 the report not later than March 15, 2010, to the House of Representatives Appropriations
27 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
28 and Human Services, and the Fiscal Research Division.

30 FUNDS FOR SCHOOL NURSES

31 **SECTION 10.24.(a)** All funds appropriated for the school nurse initiative shall be
32 used to supplement and not supplant other State, local, or federal funds appropriated or
33 allocated for this purpose. Communities shall maintain their current level of effort and funding
34 for school nurses. These funds shall not be used for funding nurses for State agencies. All
35 funds shall be used for direct services.

36 **SECTION 10.24.(b)** All school nurses funded with State funds shall participate, as
37 needed, in child and family teams.

38 **SECTION 10.24.(c)** Of the funds appropriated to the Department of Health and
39 Human Services, Division of Public Health, for the 2009-2010 and 2010-2011 fiscal years, the
40 sum of one million dollars (\$1,000,000) in each fiscal year shall be used to hire 20 additional
41 school health nurses bringing the total number of school nurses supported by DHHS to 232.
42 The distribution of additional school nurses shall be made according to the criteria established
43 by the Department in 2006.

45 AIDS DRUG ASSISTANCE PROGRAM

46 **SECTION 10.25.** For the 2009-2010 and 2010-2011 fiscal years, the Department
47 may, within existing Aids Drug Assistance Program (ADAP) resources, adjust the financial
48 eligibility criterion of the ADAP up to an amount not exceeding three hundred percent (300%)
49 of the federal poverty level in order to serve as many eligible North Carolinians living with
50 HIV disease as possible within existing resources plus any new federal resources. If a waiting
51 list develops as a result of the eligibility criterion being raised, the Department shall give first

1 priority to those individuals on the waiting list with income at or below one hundred
2 twenty-five percent (125%) of the federal poverty level, and second priority to those
3 individuals with income above one hundred twenty-five percent (125%) and at or below two
4 hundred fifty percent (250%) of federal poverty guidelines.

6 PUBLIC HEALTH IMPROVEMENT PLAN

7 **SECTION 10.26.(a)** The Department of Health and Human Services (DHHS) shall
8 develop a five-year Public Health Improvement Plan (Plan) by March 31, 2010. In developing
9 the Plan the Secretary shall:

- 10 (1) Adopt a list of services and activities performed by local health departments
11 that qualify as core public health functions of statewide significance.
- 12 (2) Adopt a list of performance measures with the intent of improving health
13 status indicators applicable to core public health functions of statewide
14 significance that local health departments (LHDs) must provide.
- 15 (3) Identify a set of health status indicators to be given priority by LHDs.

16 Under the Plan, all priorities and health status indicators must incorporate as an essential
17 activity the disparity of diseases amongst populations and locales.

18 **SECTION 10.26.(b)** In order for measurable benefits to be realized through the
19 implementation of the Plan, the Plan shall include the adoption of levels of performance
20 necessary to promote:

- 21 (1) Uniformity across local health departments,
- 22 (2) Best evidence-based services,
- 23 (3) National standards of performance,
- 24 (4) Innovations in public health practice, and
- 25 (5) Reduction of geographic and racial health disparities.

26 LHDs shall have the flexibility and opportunity to use the resources available to achieve the
27 required performance measures in a manner that best suits the LHD.

28 **SECTION 10.26.(c)** The Plan will address the need to provide county health
29 departments with financial incentives to encourage and increase local investment in public
30 health functions. County governments shall not supplant existing local funding with State
31 incentive resources. The Secretary may revise the list of activities and performance measures as
32 appropriate, but before doing so, the Secretary shall provide a written explanation of the
33 rationale for the addition, deletion, or revision.

34 **SECTION 10.26.(d)** In developing the Plan the Secretary shall establish and chair
35 the Public Health Improvement Plan Task Force (Task Force), the members and expertise of
36 which shall include:

- 37 (1) Local health departments,
- 38 (2) Department staff,
- 39 (3) Individuals and entities with expertise in the development of performance
40 measures, accountability, and systems management,
- 41 (4) Experts in development of evidence-based medical guidelines or public
42 health practice guidelines, and
- 43 (5) Individuals and entities that will be affected by the performance measures.

44 **SECTION 10.26.(e)** The implementation schedule for the Plan shall be as follows:

- 45 (1) July 1, 2009, establish the Task Force to develop the Plan,
- 46 (2) March 31, 2010, submit the Plan to the 2010 Regular Session of the 2009
47 General Assembly,
- 48 (3) July 1, 2010, implement the Plan, and
- 49 (4) November 15, 2011, and annually thereafter, report on Plan implementation.

50 **SECTION 10.26.(f)** The Department will identify the programmatic activities and
51 funding in the Division of Public Health associated with the core functions and activities in the

1 Plan. Funds associated with these activities shall be subject to a flexible spending formula
2 adopted by the Department, as follows:

- 3 (1) Beginning in SFY 2010-2011, the flexible spending formula will begin to
4 replace the current spending with a more effective method of funding public
5 health activities at the local level and achieving the results expected.
- 6 (2) The Task Force shall identify a reliable and consistent source of State
7 revenue to fund the flexible spending formula.
- 8 (3) If sufficient additional revenue is available to implement the Plan, a separate
9 set-aside of available funds would be created. This set-aside would be
10 available to contiguous LHDs that seek to address a specific women's health,
11 child health, or adult health disease or chronic condition, and in doing so,
12 choose to merge into a single Local Health District, thus saving
13 administrative dollars to be focused on public health issues.

14 **SECTION 10.26.(g)** Funds appropriated to the Department for flexible spending
15 shall be distributed to county health departments as follows:

- 16 (1) Each of the county health departments will receive a base amount to be
17 determined by the DHHS.
- 18 (2) The balance of funds in the Flexible Spending Account is to be distributed to
19 the counties on the basis of a formula that takes into consideration the
20 following elements:
 - 21 a. Population,
 - 22 b. Per capita income,
 - 23 c. Rates of:
 - 24 1. Infant mortality,
 - 25 2. Teenage pregnancy,
 - 26 3. Tobacco use,
 - 27 4. Cancer,
 - 28 5. Heart disease,
 - 29 6. Diabetes, and
 - 30 7. Stroke.
 - 31 d. Percent of minorities in the county,
 - 32 e. Body Mass Index (BMI) of public school students, and
 - 33 f. Other factors as the Secretary may find necessary to achieve the
34 goals of the Plan.
- 35 (3) The use of the funds by the LHD would reflect the core public health
36 functions. It will be incumbent upon the LHD to use the funds in a manner
37 that assures its achievement of the performance measures adopted by the
38 Secretary.

39 **SECTION 10.26.(h)** To ensure compliance with Department directives, the Task
40 Force shall consider requiring each county health department to submit to the Secretary such
41 data as the Secretary determines is necessary to allow the Secretary to assess whether the
42 county health department has used the funds in a manner consistent with achieving the
43 performance measures associated with this Plan.

44 **SECTION 10.26.(i)** Beginning November 15, 2011, and biannually thereafter, the
45 Secretary shall report to the Governor and the General Assembly on:

- 46 (1) The distribution of funds to LHDs,
- 47 (2) The use of these funds by LHDs,
- 48 (3) The specific effect the funding from this Plan has had on:
 - 49 a. LHDs' performance,
 - 50 b. Health status indicators, and
 - 51 c. Health disparities.

1 The Secretary's initial report will focus on implementation. Subsequent reports will evaluate
2 trends in performance and expenditures.
3

4 **HEALTH INFORMATION TECHNOLOGY**

5 **SECTION 10.27.(a)** The Department of Health and Human Services, in
6 cooperation with the State Chief Information Officer and the North Carolina Office of
7 Economic Recovery and Investment, shall coordinate health information technology (HIT)
8 policies and programs within the State of North Carolina. The Department's goal in
9 coordinating State HIT policy and programs shall be to avoid duplication of efforts and to
10 ensure that each State agency, public entity, and private entity that undertakes health
11 information technology activities associated with the American Recovery and Reinvestment
12 Act of 2009 (ARRA) does so within the area of its greatest expertise and technical capability,
13 and in a manner that supports coordinated State and national goals, which shall include at least
14 all of the following:

- 15 (1) Ensuring that patient health information is secure and protected, in
16 accordance with applicable law.
- 17 (2) Improving health care quality, reducing medical errors, reducing health
18 disparities, and advancing the delivery of patient-centered medical care.
- 19 (3) Providing appropriate information to guide medical decisions at the time and
20 place of care.
- 21 (4) Ensuring meaningful public input into HIT infrastructure development.
- 22 (5) Improving the coordination of information among hospitals, laboratories,
23 physician offices, and other entities through an effective infrastructure for
24 the secure and authorized exchange of health care information.
- 25 (6) Improving public health services and facilitating early identification and
26 rapid response to public health threats and emergencies, including
27 bioterrorist events and infectious disease outbreaks.
- 28 (7) Facilitating health and clinical research.
- 29 (8) Promoting early detection, prevention, and management of chronic diseases.

30 **SECTION 10.27.(b)** The Department of Health and Human Services shall
31 establish and direct a HIT management structure that is efficient and transparent and that is
32 compatible with the Office of the National Health Coordinator for Information Technology
33 (National Coordinator) governance mechanism. The HIT management structure shall be
34 responsible for all of the following:

- 35 (1) Developing a State plan for implementing and ensuring compliance with
36 national HIT standards, and for the most efficient, effective, and widespread
37 adoption of HIT.
- 38 (2) Ensuring that (i) specific populations are effectively integrated into the State
39 plan, including aging populations, populations requiring mental health
40 services, and populations utilizing the public health system; and (ii)
41 unserved and underserved populations receive priority consideration for HIT
42 support.
- 43 (3) Identifying all HIT stakeholders and soliciting feedback and participation
44 from each stakeholder in the development of the State plan.
- 45 (4) Ensuring that existing HIT capabilities are considered and incorporated into
46 the State plan.
- 47 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 48 (6) Identifying available resources for the implementation, operation, and
49 maintenance of health information technology, including, but not limited to,
50 the ARRA, with emphasis on identifying resources and available
51 opportunities for North Carolina institutions of higher learning.

- 1 (7) Ensuring that the appropriate State entities receive all the necessary
2 information and support to successfully compete for funding included in the
3 ARRA.
- 4 (8) Ensuring that potential State plan participants are aware of HIT policies and
5 programs and the opportunity for improved health information technology.
- 6 (9) Monitoring HIT efforts and initiatives in other States and replicating
7 successful efforts and initiatives in North Carolina.
- 8 (10) Monitoring the development of the National Coordinator's strategic plan and
9 ensuring that all stakeholders are aware of and in compliance with its
10 requirements.
- 11 (11) Monitoring the progress and recommendations of the HIT Policy and
12 Standards Committees and ensuring that all stakeholders remain informed of
13 the Committee's recommendations.
- 14 (12) Monitoring all studies and reports provided to the United States Congress
15 and reporting to the Joint Legislative Oversight Committee on Information
16 Technology and the Fiscal Research Division on the impact of report
17 recommendations on State efforts to implement coordinated HIT.

18 **SECTION 10.27.(c)** Beginning October 1, 2009, the Department of Health and
19 Human Services shall provide quarterly written reports on the status of HIT efforts to the
20 Senate Appropriations Committee on Health and Human Services, the House of
21 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal
22 Research Division. The report shall include the following:

- 23 (1) Current status of federal HIT initiatives.
- 24 (2) Current status of State HIT efforts and initiatives among both public and
25 private entities.
- 26 (3) A breakdown of current public and private funding sources and dollar
27 amounts for State HIT initiatives.
- 28 (4) Department efforts to coordinate HIT initiatives within the State, and any
29 obstacles or impediments to coordination.
- 30 (5) HIT research efforts being conducted within the State, and sources of
31 funding for research efforts.
- 32 (6) Opportunities for stakeholders to participate in HIT funding and other efforts
33 and initiatives during the next quarter.
- 34 (7) Issues associated with the implementation of HIT in North Carolina and
35 recommended solutions to these issues.

36 37 **HOSPITAL-ACQUIRED INFECTIONS**

38 **SECTION 10.28.** The Department of Health and Human Services shall apply for
39 federal funds that are available through P.L. 111-15, the American Recovery and Reinvestment
40 Act, to develop and implement a mandatory statewide hospital-acquired infections surveillance
41 and reporting system, as recommended by the Joint Study Committee on Hospital Infection
42 Control and Disclosure.

43 44 **MEN'S HEALTH**

45 **SECTION 10.29.** The Department of Health and Human Services, Division of
46 Public Health, shall use funds available to delegate to the Chronic Disease Prevention and
47 Control Office the responsibility for ensuring attention to the prevention of disease and
48 improvement in the quality of life for men over their entire lifespan. The Department shall
49 develop strategies for achieving these goals, which shall include (i) developing a strategic plan
50 to improve health care services, (ii) build public health awareness, and (iii) develop initiatives
51 within existing programs.

1
2 **FACILITATION OF ENROLLMENT AND REENROLLMENT OF ELIGIBLE**
3 **CHILDREN IN MEDICAID AND NC HEALTH CHOICE**

4 **SECTION 10.30.** The Department of Health and Human Services shall increase its
5 efforts to simplify the eligibility determination and recertification process to facilitate the
6 enrollment and reenrollment of eligible Medicaid and NC Health Choice individuals. The
7 Department shall also:

- 8 (1) Explore various opportunities through public awareness campaigns and
9 enlisting community organizations to alert families of the opportunities of
10 Medicaid and NC Health Choice to provide preventive health care to their
11 children; and
12 (2) Pursue opportunities in the federal Children's Health Insurance Program
13 Reauthorization Act (CHIPRA) to enhance outreach efforts and enrollment
14 for children in Medicaid and NC Health Choice. These enhancements
15 include funding for outreach and enrollment activities and implementation of
16 the "Express Lane" option that uses agencies that determine eligibility for
17 TANF, IV-D SNAP, Head Start, and School Lunch programs to enroll
18 children.

19 The Department shall also submit a Medicaid State Plan Amendment to take
20 advantage of recent federal legislation (CHIPRA) allowing states to provide medical assistance
21 to children and pregnant women who are lawfully residing in the United States.
22

23 **NC HEALTH CHOICE TRANSITION**

24 **SECTION 10.31.(a)** The Secretary of the Department of Health and Human
25 Services shall develop and implement a plan for assuming administrative responsibility for the
26 North Carolina Health Choice for Children program by transitioning all administrative
27 oversight and claims processing activities from the Executive Administrator and Board of
28 Trustees of the State Health Plan for Teachers and State Employees to the Division of Medical
29 Assistance. The transition of all administrative oversight and claims processing from the State
30 Health Plan to the Division of Medical Assistance shall be completed not later than July 1,
31 2010. The Secretary shall report to the Joint Legislative Health Care Oversight Committee and
32 the Committee on Employee Hospital and Medical Benefits at least 30 days prior to effecting
33 the transition of the responsibilities for the administration and processing of claims for benefits
34 provided under the North Carolina Health Choice for Children program from the Executive
35 Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees
36 to the Department.

37 **SECTION 10.31.(b)** In consultation with the Department of Health and Human
38 Services, Division of Medical Assistance, and other appropriate organizations, the Office of
39 State Budget and Management (OSBM) shall conduct an independent analysis of the cost to
40 determine appropriate staffing levels to manage and implement the transition of NC Health
41 Choice from the State Health Plan to the Division to ensure that the transition of NC Health
42 Choice occurs with minimal disruption and that the Division has adequate staffing and an
43 organizational structure that fits with its existing structure. The Office of State Budget and
44 Management shall report with staffing recommendations by March 1, 2010, to the Senate
45 Appropriations Committee on Health and Human Services, the House of Representatives
46 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
47 Division.
48

49 **NC HEALTH CHOICE/PROCEDURES FOR CHANGING MEDICAL POLICY**

50 **SECTION 10.32.** Chapter 108A of the General Statutes is amended by adding a
51 new section to read:

1 "§ 108A-54.3. Procedures for changing medical policy.

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

- 4 (1) During the development of new medical coverage policy or amendment to
5 existing medical coverage policy applicable to the North Carolina Health
6 Choice Program for Children, consult with and seek the advice of the
7 Physician Advisory Group of the North Carolina Medical Society and other
8 organizations the Secretary deems appropriate. The Secretary shall also
9 consult with and seek the advice of officials of the professional societies or
10 associations representing providers who are affected by the new medical
11 coverage policy or amendments to existing medical coverage policy.
- 12 (2) At least 45 days prior to the adoption of new or amended medical coverage
13 policy, the Department shall:
- 14 a. Publish the proposed new or amended medical coverage policy on
15 the Department's Web site;
- 16 b. Notify all North Carolina Health Choice Program for Children
17 providers of the proposed, new, or amended policy; and
- 18 c. Upon request, provide persons copies of the proposed medical
19 coverage policy.
- 20 (3) During the 45-day period immediately following publication of the proposed
21 new or amended medical coverage policy, accept oral and written comments
22 on the proposed new or amended policy.
- 23 (4) If, following the comment period, the proposed new or amended medical
24 coverage policy is modified, then the Department shall, at least 15 days prior
25 to its adoption:
- 26 a. Notify all North Carolina Health Choice Program for Children
27 providers of the proposed policy;
- 28 b. Upon request, provide persons notice of amendments to the proposed
29 policy; and
- 30 c. Accept additional oral or written comments during this 15-day
31 period."

32
33 **NC HEALTH CHOICE MEDICAL POLICY**

34 **SECTION 10.33.** Unless required for compliance with federal law, the Department
35 shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC
36 Health Choice health care services and who may provide services until the Division of Medical
37 Assistance has prepared a five-year fiscal analysis documenting the increased cost of the
38 proposed change in medical policy and submitted it for Departmental review. If the fiscal
39 impact indicated by the fiscal analysis for any proposed medical policy change exceeds one
40 million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department
41 shall submit the proposed medical policy change with the fiscal analysis to the Office of State
42 Budget and Management and the Fiscal Research Division. The Department shall not
43 implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in
44 total requirements for a given fiscal year unless the source of State funding is identified and
45 approved by the Office of State Budget and Management. For medical policy changes
46 exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are
47 required for compliance with federal law, the Department shall submit the proposed medical
48 policy or policy interpretation change with a five-year fiscal analysis to the Office of State
49 Budget and Management prior to implementing the change. The Department shall provide the
50 Office of State Budget and Management and the Fiscal Research Division a quarterly report

1 itemizing all medical policy changes with total requirements of less than one million dollars
2 (\$1,000,000).

4 NC HEALTH CHOICE ENROLLMENT

5 **SECTION 10.34.** The Department of Health and Human Services may, in the NC
6 Health Choice Program for the 2009-2010 fiscal year, allow enrollment to grow by not more
7 than 15,583 children.

9 NCHC FUNDS REDUCTION/CCNC

10 **SECTION 10.35.(a)** The last paragraph of G.S. 108A-70.21(b) reads as rewritten:
11 "**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;**
12 **coverage from private plans; purchase of extended coverage.**

13 ...

14 The Department shall provide services to children enrolled in the NC Health Choice
15 Program through Community Care of North Carolina ([CCNC](#)) and shall pay Community Care
16 of North Carolina providers for these services as allowed under Medicaid. [The Department
17 shall pay for these services only if sufficient information is available to the Department for
18 utilization management of the services provided through CCNC.](#)"

19 **SECTION 10.35.(b)** The Department of Health and Human Services, Division of
20 Medical Assistance, shall reduce or eliminate funding for per member/per month fees paid to
21 Community Care of North Carolina (CCNC) if sufficient information is not available to the
22 Department for utilization management of the provider services.

24 COMMUNITY CARE OF NORTH CAROLINA

25 **SECTION 10.36.(a)** Given the primary care case management foundation
26 established by Community Care of North Carolina, the Department shall build upon that
27 foundation to ensure quality care and cost control of CCNC by implementing the activities
28 listed in subsection (b) of this section.

29 **SECTION 10.36.(b)** The Department shall contract with CCNC to manage the care
30 of Medicaid recipients, through a per member, per month reimbursement. In the contract
31 DHHS shall ensure that CCNC adheres to the following tenets, adapted from the National
32 Committee of Quality Assurance's (NCQA) national measures for Medical Homes Models. The
33 CCNC networks must demonstrate proficiency in:

- 34 (1) Written standards for patient access and patient communication;
- 35 (2) Use of data to show patients are meeting this standard;
- 36 (3) Adoption and implementation of evidenced-based guidelines for priority
37 diseases and conditions as identified by DHHS;
- 38 (4) Active support, monitoring, follow-up, and documentation on patient
39 self-management;
- 40 (5) Tracking system to test and identify abnormal results, and follow-up in a
41 timely manner;
- 42 (6) Tracking referrals from and to other acute and long-term care facilities and
43 providers, so as to provide continuous management of patient care;
- 44 (7) Measurement of clinical and/or service performance by physician or across a
45 practice; and
- 46 (8) Reporting performance according to baseline data and performance measure
47 established by the DHHS Independent Advisory Group across CCNC
48 networks, practices, and physicians to achieve the maximum savings
49 possible through the improvement in the quality of care.

50 **SECTION 10.36.(c)** By July 1, 2009, or as soon as possible thereafter, the
51 Department shall establish an Independent Advisory Group (IAG) for the purpose of

1 developing targeted (i) baseline data, (ii) clinically acceptable performance measures that
2 recognize nationally accredited treatment protocols, and (iii) patient, physician, and practice
3 goals that improve quality of care, and realize necessary savings within Medicaid. The
4 members of the Independent Advisory Group shall have demonstrated experience in actuarial
5 analysis, health policy analysis, medical practice, hospital administration, or management of
6 long-term chronic conditions. The Independent Advisory Group and the Department shall
7 ensure the following:

- 8 (1) The IAG shall begin work immediately so that baseline data, clinically
9 acceptable performance measures, and practice goals to improve quality and
10 cost savings can be implemented no later than January 1, 2010.
- 11 (2) The Department shall prepare a report to the General Assembly on the
12 baseline data, clinically acceptable performance measures, and practice goals
13 adopted by the IAG, and the improved quality and cost savings expected as a
14 result of their implementation. This report will be due January 31, 2010.
- 15 (3) The IAG shall establish baseline information and performance measures for
16 the diseases and conditions listed in this subdivision, the focus of which
17 shall be on Medicaid recipients who are children, adults, and among those
18 who are aged, blind, or disabled. The diseases and conditions shall include:
 - 19 a. Asthma,
 - 20 b. Diabetes,
 - 21 c. Heart disease,
 - 22 d. Chronic Obstructive Pulmonary Disease,
 - 23 e. Mental illness,
 - 24 f. Substance abuse,
 - 25 g. Obesity, and
 - 26 h. High risk maternity care
- 27 (4) The baseline information, performance measures, and practice and physician
28 goals developed for the continuing care of Medicaid recipients, who are also
29 eligible for Medicare shall include attention to this population's:
 - 30 a. Increased primary care visit rate,
 - 31 b. Hospital admission rate,
 - 32 c. Hospital readmission rate,
 - 33 d. Emergency department visit rate,
 - 34 e. Mortality rate, and
 - 35 f. Prescription drug management, including:
 - 36 1. Number of prescriptions prescribed,
 - 37 2. Number of generic versus brand-name prescriptions, and
 - 38 3. Reconciliation of a patient's prescriptions between hospital,
39 nursing facility, and primary care physician.

40 **SECTION 10.36.(d)** The Department shall conduct a Request for Proposal (RFP)
41 process to solicit bids from qualified outside entities with proven experience in conducting
42 actuarial and health care studies and evaluations to:

- 43 (1) Report, assess, and evaluate the CCNC networks proficiency in fulfilling the
44 eight tenets described above,
- 45 (2) Report, assess, and evaluate the CCNC networks implementation and
46 achievement of the baseline data, clinically acceptable performance
47 measures, and practice goals to improve quality and cost savings established
48 by the IAG, and
- 49 (3) Report on the Medicaid cost savings achieved by the CCNC networks during
50 a 12-month period.

1 **SECTION 10.36.(e)** The contractor's report, information, and data shall be in a
2 format that allows the Department to manipulate and assess the performance of CCNC as a
3 whole and for its 14 networks individually. Not later than November 1, 2010, the Department
4 shall provide to the Senate Appropriations Committee on Health and Human Services, the
5 House of Representatives Appropriations Subcommittee on Health and Human Services, and
6 the Fiscal Research Division copies of the contractor's report for CCNC activities conducted
7 during the 2009-2010 fiscal year.

8 **SECTION 10.36.(f)** Under the Children's Health Insurance Program
9 Reauthorization Act, P.L. 111-1, the U.S. Secretary of Health and Human Services is directed
10 to:

11 (1) Develop a standardized reporting format that encourages states to report
12 information regarding the quality of pediatric health care delivered through
13 the State Children's Health Insurance Program, and

14 (2) Establish a set of pediatric quality measures not later than January 1, 2011.

15 Given this directive, the IAG shall develop targeted baseline data, clinically
16 acceptable performance measures that recognize nationally accredited treatment protocols, and
17 patient, physician, and practice goals that improve quality of care, in order to realize necessary
18 savings within North Carolina's Health Choice program. The IAG shall begin this effort so that
19 baseline data, clinically acceptable performance measures, and practice goals to improve
20 quality and cost savings can be implemented by July 1, 2010, the date on which the Department
21 of Health and Human Services' Division of Medical Assistance assumes management
22 responsibility of the Health Choice program from the State Health Plan.

23 24 **COMMUNITY HEALTH CENTER CHANGES**

25 **SECTION 10.37.** Of the funds appropriated in this act for Community Health
26 Grants, the sum of seven million eight hundred sixty thousand dollars (\$7,860,000) in recurring
27 funds for the 2009-2010 fiscal year and the sum of seven million eight hundred sixty thousand
28 dollars (\$7,860,000) for the 2010-2011 fiscal year. These funds shall be allocated as grants on
29 a competitive basis to rural health centers, free clinics, public health departments, school-based
30 health centers, qualified health centers, and other nonprofit organizations that provide primary
31 care and preventive health services to uninsured and indigent persons. Community health
32 centers that have received federal funds through the American Recovery and Reinvestment Act
33 to provide new, expanded, or continuing health services are not eligible to receive funds under
34 this section.

35 36 **LIABILITY INSURANCE**

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

50 **SECTION 10.38.(b)** The coverage provided under this section shall not cover any
51 individual for any act or omission that the individual knows or reasonably should know

1 constitutes a violation of the applicable criminal laws of any state or the United States or that
2 arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to
3 willful or wanton negligence.

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

13 14 **FUNDS FOR JIM "CATFISH" HUNTER CHAPTER OF THE ALS ASSOCIATION**

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

18 19 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

20 **SECTION 10.40.** Subject to rules adopted by the State Controller, an employee of
21 the Department of Health and Human Services may authorize, in writing, the periodic
22 deduction from the employee's salary or wages for employment by the State, a designated lump
23 sum to be paid to satisfy the cost of services received for child care provided by the
24 Department.

25 26 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 27 **FUNDS/IMPLEMENTATION OF MMIS**

28 **SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of
29 Health and Human Services (Department) from prior year earned revenues received by the
30 Department for the Medicaid Management Information System (MMIS), the sum of eleven
31 million seventy-one thousand five hundred two dollars (\$11,071,502) for fiscal year 2009-2010
32 and the sum of nine million eight hundred twenty thousand six hundred eighty-nine dollars
33 (\$9,820,689) for fiscal year 2010-2011 shall be (i) deposited to the Department's information
34 technology budget code and (ii) used to match federal funds for the procurement, design,
35 development, and implementation of the new MMIS system and to fund the central
36 management of the project. In the event that the Department does not receive prior year earned
37 revenues in these amounts, the Department is authorized with approval of the Office of State
38 Budget and Management to use other over-realized receipts to the level appropriated in this act
39 for MMIS expenditures.

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

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

46 The Department shall make every effort to expedite the implementation of the
47 enhancements. The Office of Information Technology Services shall work in cooperation with
48 the Department to ensure the timely and effective implementation of the MMIS and
49 enhancements. The contract between the Department and the contract vendor shall contain an
50 explicit provision requiring that the MMIS have the capability to fully implement the
51 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the

1 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid
2 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must
3 have detailed cost information for each requirement before signing the contract. Any contract
4 between the Department and a vendor for the MMIS that does not contain the explicit provision
5 required under this subsection is void on its face. Notwithstanding any other provision of law to
6 the contrary, the Secretary of the Department does not have the authority to sign a contract for
7 the MMIS if the contract does not contain the explicit provision required under this section.

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

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

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

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

46
47 **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**
48 **TECHNOLOGY (NC FAST) FUNDS**

49 **SECTION 10.42.** The sum of eighteen million three hundred twenty-seven
50 thousand four hundred seventy-eight dollars (\$18,327,478) is appropriated from Budget Code
51 24441, Fund Code 2006, to the Department of Health and Human Services, Division of Central

1 Management Services, for the 2009-2010 fiscal year. These funds shall be used for the
2 development and implementation of North Carolina Families Accessing Services Through
3 Technology (NC FAST). Funds will be placed in the Department's information technology
4 budget code and will match federal funds for project implementation.
5

6 PROGRAM ON PREVENTION OF ABUSE AND NEGLECT

7 SECTION 10.43.(a) The Children's Trust Fund, a program on prevention of abuse
8 and neglect, is transferred from the Department of Public Instruction to the Division of Social
9 Services in the Department of Health and Human Services, as if by a Type I transfer as defined
10 in G.S. 143A-6, with all the elements of such a transfer.

11 SECTION 10.43.(b) G.S. 7B-1301 reads as rewritten:
12 "§ 7B-1301. Program on Prevention of Abuse and Neglect.

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

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

- 19 (1) The ~~Department of Public Instruction~~ Division of Social Services shall
20 review applications and make recommendations ~~to the State Board of~~
21 Education concerning the awarding of contracts under this Article.
- 22 (2) The ~~State Board of Education~~ Division of Social Services shall contract with
23 public or private nonprofit organizations, agencies, schools, or with qualified
24 individuals to operate community-based educational and service programs
25 designed to prevent the occurrence of abuse and neglect. Every contract
26 entered into by the ~~State Board of Education~~ Division of Social Services
27 shall contain provisions that at least twenty-five percent (25%) of the total
28 funding required for a program be provided by the administering
29 organization in the form of in-kind or other services and that a mechanism
30 for evaluation of services provided under the contract be included in the
31 services to be performed. In addition, every proposal to the ~~Department of~~
32 Public Instruction Division of Social Services for funding under this Article
33 shall include assurances that the proposal has been forwarded to the local
34 department of social services for comment so that the ~~Department of Public~~
35 Instruction Division of Social Services may consider coordination and
36 duplication of effort on the local level as criteria in making
37 recommendations ~~to the State Board of Education~~.
- 38 (3) The ~~State Board of Education~~ Division of Social Services, with the
39 assistance of the Department of ~~Public Instruction~~ Health and Human
40 Services, shall develop appropriate guidelines and criteria for awarding
41 contracts under this Article. These criteria shall include, but are not limited
42 to: documentation of need within the proposed geographical impact area;
43 diversity of geographical areas of programs funded under this Article;
44 demonstrated effectiveness of the proposed strategy or program for
45 preventing abuse and neglect; reasonableness of implementation plan for
46 achieving stated objectives; utilization of community resources including
47 volunteers; provision for an evaluation component that will provide outcome
48 data; plan for dissemination of the program for implementation in other
49 communities; and potential for future funding from private sources.
- 50 (4) The ~~State Board of Education~~ Division of Social Services, with the
51 assistance of the Department of ~~Public Instruction~~ Health and Human

1 Services, shall develop guidelines for regular monitoring of contracts
2 awarded under this Article in order to maximize the investments in
3 prevention programs by the Children's Trust Fund and to establish
4 appropriate accountability measures for administration of contracts.

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

9 (c) To assist in implementing this Article, the ~~State Board of Education~~ Division of
10 Social Services may accept contributions, grants, or gifts in cash or otherwise from persons,
11 associations, or corporations. All monies received by the ~~State Board of Education~~ Division of
12 Social Services from contributions, grants, or gifts and not through appropriation by the
13 General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds
14 shall be on the authorization of the ~~State Board of Education or that Board's duly authorized~~
15 representative Department of Health and Human Services. In order to maintain an effective
16 expenditure and revenue control, the funds are subject in all respects to State law and
17 regulations, but no appropriation is required to permit expenditure of the funds.

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

- 22 (1) Community-based educational programs on prenatal care, perinatal bonding,
23 child development, basic child care, care of children with special needs, and
24 coping with family stress; and
25 (2) Community-based programs relating to crisis care, aid to parents, and
26 support groups for parents and their children experiencing stress within the
27 family unit.

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

30 **SECTION 10.43.(c)** G.S. 7B-1302 reads as rewritten:

31 **"§ 7B-1302. Children's Trust Fund.**

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

37 (b) The Department of ~~Public Instruction~~ Health and Human Services shall report
38 annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative
39 Commission on Governmental Operations."
40

41 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**
42 **PERFORMANCE ENHANCEMENTS**

43 **SECTION 10.44.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the
44 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to
45 children and families in cases of abuse, neglect, and dependency where a child is at imminent
46 risk of removal from the home and to children and families in cases of abuse where a child is
47 not at imminent risk of removal. The Program shall be developed and implemented statewide
48 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria
49 for determining imminent risk and clear criteria for determining out-of-home placement.

1 **SECTION 10.44.(b)** The Department of Health and Human Services shall require
2 that any program or entity that receives State, federal, or other funding for the purpose of
3 Intensive Family Preservation Services shall provide information and data that allows for:

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

17 **SECTION 10.44.(c)** The Department shall establish performance-based funding
18 protocol and shall only provide funding to those programs and entities providing the required
19 information specified in subsection (b) of this section. The amount of funding shall be based on
20 the individual performance of each program.

21 **SECTION 10.44.(d)** The Department shall publish an annual report on the
22 Intensive Family Preservation Services Program, including the information and data under
23 subdivisions (b)(2) through (b)(6) of this section.
24

25 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

26 **SECTION 10.45.(a)** The maximum rates for State participation in the foster care
27 assistance program are established on a graduated scale as follows:

- 28 (1) \$475.00 per child per month for children aged birth through 5;
- 29 (2) \$581.00 per child per month for children aged 6 through 12; and
- 30 (3) \$634.00 per child per month for children aged 13 through 18.

31 **SECTION 10.45.(b)** The maximum rates for the State adoption assistance program
32 are established consistent with the foster care rates as follows:

- 33 (1) \$475.00 per child per month for children aged birth through 5;
- 34 (2) \$581.00 per child per month for children aged 6 through 12; and
- 35 (3) \$634.00 per child per month for children aged 13 through 18.

36 **SECTION 10.45.(c)** In addition to providing board payments to foster and
37 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of
38 the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose
39 shall be used to provide medical training in avoiding HIV transmission in the home.

40 **SECTION 10.45.(d)** The maximum rates for the State participation in HIV foster
41 care and adoption assistance are established on a graduated scale as follows:

- 42 (1) \$800.00 per child per month with indeterminate HIV status;
- 43 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 44 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 45 (4) \$1,600 per child per month terminally ill with complex care needs.

46 **SECTION 10.45.(e)** The State and a county participating in foster care and
47 adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost
48 of care for a child placed by a county department of social services or child placing agency in a
49 family foster home or residential child care facility. A county shall be held harmless from
50 contributing fifty percent (50%) of the nonfederal share of the cost for a child currently in a

1 family foster home or residential child care facility until the child leaves foster care or
2 experiences a placement change.

3 **SECTION 10.45.(f)** The Department of Health and Human Services may establish
4 foster care and adoption assistance rates based on the United States Department of Agriculture
5 (USDA) "Expenditures on Children by Families" index subject to State appropriations for each
6 fiscal year.

7 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

8 **SECTION 10.46.** G.S. 110-129.1(a) is amended by adding the following new
9 subdivision to read:

10
11 "(a) In addition to other powers and duties conferred upon the Department of Health and
12 Human Services, Child Support Enforcement Program, by this Chapter or other State law, the
13 Department shall have the following powers and duties:

14 ...

15 (8) Implement and maintain performance standards for each of the State and
16 county child support enforcement offices across the State. The performance
17 standards shall include the following:

18 a. Cost per collections.

19 b. Consumer satisfaction.

20 c. Paternity establishments.

21 d. Administrative costs.

22 e. Orders established.

23 f. Collections on arrearages.

24 g. Location of absent parents.

25 h. Other related performance measures.

26 The Department shall monitor the performance of each office and shall
27 implement a system of reporting that allows each local office to review its
28 performance as well as the performance of other local offices. The
29 Department shall publish an annual performance report that includes the
30 statewide and local office performance of each child support office."

31 **CHILD CARING INSTITUTIONS**

32 **SECTION 10.47.** Until the Social Services Commission adopts rules setting
33 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the
34 maximum reimbursement for child caring institutions shall not exceed the rate established for
35 the specific child caring institution by the Department of Health and Human Services, Office of
36 the Controller. In determining the maximum reimbursement, the State shall include county and
37 IV-E reimbursements.
38

39 **SPECIAL CHILDREN ADOPTION FUND**

40 **SECTION 10.48.** Part 4 of Article 2 of Chapter 108A of the General Statutes is
41 amended by adding the following new section to read:

42 **"§ 108A-50.2. Special Children Adoption Fund.**

43 (a) Funds appropriated by the General Assembly in the Current Operations
44 Appropriations Act shall be used to support the Special Children Adoption Fund. The Division
45 of Social Services of the Department of Health and Human Services, in consultation with the
46 North Carolina Association of County Directors of Social Services and representatives of
47 licensed private adoption agencies, shall develop guidelines for the awarding of funds to
48 licensed public and private adoption agencies upon the adoption of children described in
49 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund
50 by participating agencies shall be used exclusively to enhance the adoption services. No local
51

1 match shall be required as a condition for receipt of these funds. In accordance with State rules
2 for allowable costs, the Special Children Adoption Fund may be used for post-adoption
3 services for families whose income exceeds two hundred percent (200%) of the federal poverty
4 level.

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

11 (c) The Division of Social Services shall monitor the total expenditures in the Special
12 Children Adoption Fund and redistribute unspent funds to ensure that the funds are used in
13 accordance with the guidelines established in subsection (a) of this section. The Division of
14 Social Services shall implement strategies to ensure that funds that have historically reverted
15 for this program are used for the intended purpose."

17 **LIMITATION ON STATE ABORTION FUND**

18 **SECTION 10.49.** The limitations on funding of the performance of abortion
19 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section
20 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2009-2010 and 2010-2011 fiscal
21 years.
22

23 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT** 24 **FUND**

25 **SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the
26 Department of Health and Human Services the sum of three million one hundred sixty-eight
27 thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds
28 shall be used to support the child welfare postsecondary support program for the educational
29 needs of foster youth aging out of the foster care system and special needs children adopted
30 from foster care after age 12 by providing assistance with the "cost of attendance" as that term
31 is defined in 20 U.S.C. § 10871l. The Department shall collaborate with the State Education
32 Assistance Authority to develop policies and procedures for the distribution of these funds.

33 If the interest income generated from the Escheat Fund is less than the amounts
34 referenced in this section, the difference may be taken from the Escheat Fund principal to reach
35 the appropriations referenced in this section; however, under no circumstances shall the
36 Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f).

37 Funds appropriated by this section shall be allocated by the State Education
38 Assistance Authority.

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

42 **SECTION 10.50.(b)** Of the funds appropriated from the General Fund to the
43 Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the
44 2009-2010 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal
45 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).
46 The SEAA shall use these funds only to perform administrative functions necessary to manage
47 and distribute scholarship funds under the child welfare postsecondary support program.

48 **SECTION 10.50.(c)** Of the funds appropriated from the General Fund to the
49 Department of Health and Human Services the sum of five hundred thousand dollars
50 (\$500,000) for the 2009-2010 fiscal year and the sum of five hundred thousand dollars
51 (\$500,000) for the 2010-2011 fiscal year shall be used to contract with an entity to develop and

1 administer the child welfare postsecondary support program described under subsection (a) of
2 this section, which development and administration shall include the performance of case
3 management services.

4 **SECTION 10.50.(d)** Funds appropriated to the Department of Health and Human
5 Services for the child welfare postsecondary support program shall be used only for students
6 attending public institutions of higher education in this State.

7 **SECTION 10.50.(e)** It is the intent of the General Assembly that for the 2010-2011
8 fiscal year and beyond, support for the child welfare postsecondary support program shall be
9 appropriated from the General Fund.

10 11 **TANF BENEFIT IMPLEMENTATION**

12 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
13 Carolina Temporary Assistance for Needy Families State Plan FY 2009-2011," prepared by the
14 Department of Health and Human Services and presented to the General Assembly. The North
15 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,
16 2009, through September 30, 2011. The Department shall submit the State Plan, as revised in
17 accordance with subsection (b) of this section, to the United States Department of Health and
18 Human Services, as amended by this act or any other act of the 2009 General Assembly.

19 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
20 Carolina's Temporary Assistance for Needy Families State Plan FY 2009-2011, as approved by
21 this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson.

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

28 29 **EVALUATION OF CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS OF** 30 **COUNTY DEPARTMENTS OF SOCIAL SERVICES**

31 **SECTION 10.52.(a)** The Department of Health and Human Services, Division of
32 Social Services, shall study the consolidation of administrative functions among county
33 departments of social services.

34 **SECTION 10.52.(b)** The Department shall collaborate with counties to identify
35 opportunities for functional consolidation, affected administrative functions, estimated cost
36 savings, and requisite policy changes, if applicable, to accommodate the consolidation. The
37 Department shall not consolidate administrative functions except as directed by an act of the
38 General Assembly.

39 **SECTION 10.52.(c)** The Department shall report its findings and
40 recommendations to the Senate Appropriations Committee on Health and Human Services, the
41 House of Representatives Appropriations Subcommittee on Health and Human Services, the
42 Senate Appropriations Committee on Education/Higher Education, the House of
43 Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division
44 by April 1, 2010.

45 46 **ENHANCE MARKETING OF PUBLIC ASSISTANCE AVAILABILITY**

47 **SECTION 10.53.** To ensure that working families are aware of the availability of
48 assistance from Food and Nutrition Services programs and Medical Assistance, the Office of
49 Economic Opportunity, Division of Social Services, and county departments of social services
50 shall enhance the marketing of available services, including Food and Nutrition Services, and
51 Medical Assistance, for prospective recipients.

1
2 **EVALUATION AND IMPLEMENTATION OF COST-EFFECTIVE EDUCATION FOR**
3 **STUDENTS WHO ARE DEAF OR HEARING-IMPAIRED**

4 **SECTION 10.54.(a)** The Department of Health and Human Services, in
5 collaboration with the Department of Public Instruction and the Free Appropriate Public
6 Education Task Force (Task Force), shall develop a plan to reduce the costs of residential
7 instruction for students who are deaf or hearing-impaired. The Plan shall include:

- 8 (1) The transitioning, as appropriate, of students served by the Western North
9 Carolina School for the Deaf and Eastern North Carolina School for the Deaf
10 to local education agencies (LEAs), and the identification of LEA resource
11 requirements for the provision of appropriate instruction; and
12 (2) Additional instructional alternatives.

13 **SECTION 10.54.(b)** The Department of Health and Human Services, the
14 Department of Public Instruction, and the Task Force shall report their findings and reduction
15 plan to the Senate Appropriations Committee on Health and Human Services, the House of
16 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
17 Appropriations Committee on Education/Higher Education, the House of Representatives
18 Appropriations Subcommittee on Education, and the Fiscal Research Division no later than
19 April 1, 2010.
20

21 **NON-MEDICAID REIMBURSEMENT CHANGES**

22 **SECTION 10.55.** Providers of medical services under the various State programs,
23 other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates
24 no higher than those under the North Carolina Medical Assistance Program.

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

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

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

40 DSB Medical Eye Care	125% FPL
41 DSB Independent Living <55	125% FPL
42 DSB Independent Living 55>	200% FPL
43 DSB Vocational Rehabilitation	125% FPL
44 DVR Independent Living	125% FPL
45 DVR Vocational Rehabilitation	125% FPL

46 The Department of Health and Human Services shall contract at, or as close as
47 possible to, Medicaid rates for medical services provided to residents of State facilities of the
48 Department.
49

50 **DIVISION OF SERVICES FOR THE DEAF AND HARD OF HEARING/FUNDS**
51 **TRANSFER AND APPROPRIATION**

1 **SECTION 10.56.(a)** Notwithstanding G.S. 62-157, on July 1, 2009, the State
2 Controller shall transfer five million dollars (\$5,000,000) from the Special Account for
3 Telecommunications Relay Service to Nontax Budget Code 19978 (Intra State Transfers) to
4 support General Fund appropriations for the 2009-2010 fiscal year.

5 **SECTION 10.56.(b)** Of funds appropriated with Budget Code 67425, Fund Code
6 6725, and Fund Code 6726 the sum of one million five hundred thousand dollars (\$1,500,000)
7 shall be transferred to Budget Code 24410 for Information Technology Projects in the
8 Department of Health and Human Services, Division of Central Management and Support for
9 the Data Collection and Case Management Systems initiative. This initiative shall also be
10 supported with federal funds from the Rehabilitation Act. Funds made available under this
11 section shall be used for the development and implementation of a data collection and case
12 management information system to replace the current system in use by the Division of
13 Services for the Blind, Division of Services for the Deaf and Hard of Hearing, and the Division
14 of Vocational Rehabilitation Services. The Department shall use federal funds first and then
15 State funds, only as necessary, from Budget Code 67425. In accordance with
16 G.S. 143C-1-2(b), funds appropriated for this project shall not revert to the fund from which
17 they came until the project is complete.

18 **SECTION 10.56.(c)** If, upon the transfer and appropriation of funds under this
19 section, available funds are insufficient to support recurring services the Division of Services
20 for the Deaf and Hard of Hearing is authorized to provide, the Department of Health and
21 Human Services, shall, pursuant to G.S. 62-157, file a petition with the North Carolina Utilities
22 Commission to reset the surcharge provided for in G.S. 62-157 to maintain a reasonable margin
23 for reserve for the operation of the statewide telecommunications relay service.
24

25 **STATE-COUNTY SPECIAL ASSISTANCE**

26 **SECTION 10.57.(a)** The eligibility of Special Assistance recipients residing in
27 adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special
28 Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report
29 and Related Services, providing these recipients are otherwise eligible. The maximum monthly
30 rate for these residents in adult care home facilities shall be one thousand two hundred
31 thirty-one dollars (\$1,231) per month per resident.

32 **SECTION 10.57.(b)** Effective January 1, 2009, the maximum monthly rate for
33 residents in adult care home facilities shall be one thousand two hundred seven dollars (\$1,207)
34 per month per resident unless adjusted by the Department in accordance with subsection (d) of
35 this section.

36 **SECTION 10.57.(c)** The maximum monthly rate for residents in
37 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars
38 (\$1,515) per month per resident unless adjusted by the Department in accordance with
39 subsection (d) of this section.

40 **SECTION 10.57.(d)** Notwithstanding any other provision of this section, the
41 Department of Health and Human Services shall review activities and costs related to the
42 provision of care in adult care homes and shall determine what costs may be considered to
43 properly maximize allowable reimbursement available through Medicaid personal care services
44 for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary
45 approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the
46 Office of State Budget and Management, the Department may transfer necessary funds from
47 the State-County Special Assistance program within the Division of Social Services to the
48 Division of Medical Assistance and may use those funds as State match to draw down federal
49 matching funds to pay for such activities and costs under Medicaid's personal care services for
50 adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for
51 State-County Special Assistance set forth in subsections (b) and (c) of this section shall be

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

17 **SECTION 10.57.(e)** The Department of Health and Human Services shall
18 recommend rates for State-County Special Assistance and for Adult Care Home Personal Care
19 Services. The Department may recommend rates based on appropriate cost methodology and
20 cost reports submitted by adult care homes that receive State-County Special Assistance funds
21 and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care
22 Home Personal Care Services to the same standards as apply to other residential service
23 providers.
24

25 **MEDICAID**

26 **SECTION 10.58.(a)** Use of Funds, Allocation of Costs, Other Authorizations.

- 27 (1) Use of funds. – Funds appropriated in this act for services provided in
28 accordance with Title XIX of the Social Security Act (Medicaid) are for both
29 the categorically needy and the medically needy.
- 30 (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one
31 hundred percent (100%) of the nonfederal costs of all applicable services
32 listed in this section. In addition, the State shall pay one hundred percent
33 (100%) of the federal Medicare Part D clawback payments under the
34 Medicare Modernization Act of 2004.
- 35 (3) Use of funds for development and acquisition of equipment and software. –
36 If first approved by the Office of State Budget and Management, the
37 Division of Medical Assistance, Department of Health and Human Services,
38 may use funds that are identified to support the cost of development and
39 acquisition of equipment and software and related operational costs through
40 contractual means to improve and enhance information systems that provide
41 management information and claims processing. The Department of Health
42 and Human Services shall identify adequate funds to support the
43 implementation and first year's operational costs that exceed funds allocated
44 for the 2009-2010 and 2010-2011 fiscal years for the new contract for the
45 fiscal agent for the Medicaid Management Information System.
- 46 (4) Reports. – Unless otherwise provided, whenever the Department of Health
47 and Human Services is required by this section to report to the General
48 Assembly, the report shall be submitted to the House of Representatives
49 Appropriations Subcommittee for Health and Human Services, the Senate
50 Appropriations Committee on Health and Human Services, and the Fiscal

1 Research Division of the Legislative Services Office. Reports shall be
2 submitted on the date provided in the reporting requirement.

3 **SECTION 10.58.(b) Policy.**

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

43 **SECTION 10.58.(c) Eligibility.** – Eligibility for Medicaid shall be determined in
44 accordance with the following:

- 45 (1) Medicaid and Work First Family Assistance.
46 a. Income eligibility standards. – The maximum net family annual
47 income eligibility standards for Medicaid and Work First Family
48 Assistance and the Standard of Need for Work First Family
49 Assistance shall be as follows:

50
51 **CATEGORICALLY**

MEDICALLY

	NEEDY – WFFA*		NEEDY
1			
2			
3		Standard of Need	
4		&	
5		Families and	
6		Families and	WFFA*
7	Family	Children	Payment
8	Size	Income Level	Level
9	1	\$4,344	\$2,172
10	2	5,664	2,832
11	3	6,528	3,264
12	4	7,128	3,564
13	5	7,776	3,888
14	6	8,376	4,188
15	7	8,952	4,476
16	8	9,256	4,680
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*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.

- 1 e. Children aged six through 18 with family incomes equal to or less
- 2 than one hundred percent (100%) of the federal poverty guidelines
- 3 and without regard to resources.
- 4 f. Family planning services to men and women of childbearing age
- 5 with family incomes equal to or less than one hundred eighty-five
- 6 percent (185%) of the federal poverty guidelines and without regard
- 7 to resources.
- 8 g. Workers with disabilities described in G.S. 108A-54.1 with unearned
- 9 income equal to or less than one hundred fifty percent (150%) of the
- 10 federal poverty guidelines.

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

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

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

Monthly Net Wages	Monthly Incentive Allowance
28 \$1.00 to \$100.99	Up to \$50.00
29 \$101.00 to \$200.99	\$80.00
30 \$201.00 to \$300.99	\$130.00
31 \$301.00 and greater	\$212.00

32 (6) The Department of Health and Human Services, Division of Medical
 33 Assistance, shall provide Medicaid coverage to women who need treatment
 34 for breast or cervical cancer and who are defined in 42 U.S.C. §
 35 1396a.(a)(10)(A)(ii)(XVIII).
 36

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

- 43 (1) Hospital inpatient. – Payment for hospital inpatient services will be
- 44 prescribed by the State Plan as established by the Department of Health and
- 45 Human Services.
- 46 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
- 47 prospective reimbursement plan as established by the Department of Health
- 48 and Human Services.
- 49 (3) Nursing facilities. – Nursing facilities providing services to Medicaid
- 50 recipients who also qualify for Medicare must be enrolled in the Medicare
- 51 program as a condition of participation in the Medicaid program. State

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

- 1 (22) Case management services. – Reimbursement in accordance with the
2 availability of funds to be transferred within the Department of Health and
3 Human Services.
- 4 (23) Hospice.
- 5 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for
6 reimbursement, providers must be licensed or certified by the occupational
7 licensing board or the certification authority having authority over the
8 provider's license or certification. Medically necessary prosthetics and
9 orthotics are subject to prior approval and utilization review.
- 10 (25) Health insurance premiums.
- 11 (26) Medical care/other remedial care. – Services not covered elsewhere in this
12 section include related services in schools; health professional services
13 provided outside the clinic setting to meet maternal and infant health goals;
14 and services to meet federal EPSDT mandates.
- 15 (27) Pregnancy-related services. – Covered services for pregnant women shall
16 include nutritional counseling, psychosocial counseling, and predelivery and
17 postpartum home visits by maternity care coordinators and public health
18 nurses.
- 19 (28) Drugs. – Reimbursements. Reimbursements shall be available for
20 prescription drugs as allowed by federal regulations plus a professional
21 services fee per month, excluding refills for the same drug or generic
22 equivalent during the same month. Payments for drugs are subject to the
23 provisions of this subdivision or in accordance with the State Plan adopted
24 by the Department of Health and Human Services, consistent with federal
25 reimbursement regulations. Payment of the professional services fee shall be
26 made in accordance with the State Plan adopted by the Department of Health
27 and Human Services, consistent with federal reimbursement regulations. The
28 professional services fee shall be five dollars and sixty cents (\$5.60) per
29 prescription for generic drugs and four dollars (\$4.00) per prescription for
30 brand-name drugs. Adjustments to the professional services fee shall be
31 established by the General Assembly. In addition to the professional services
32 fee, the Department may pay an enhanced fee for pharmacy services.

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

41 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through
42 G.S. 90-85.31, or any other law to the contrary, under the Medical
43 Assistance Program (Title XIX of the Social Security Act), and except as
44 otherwise provided in this subsection for drugs listed in the narrow
45 therapeutic index, a prescription order for a drug designated by a trade or
46 brand name shall be considered to be an order for the drug by its established
47 or generic name, except when the prescriber has determined, at the time the
48 drug is prescribed, that the brand-name drug is medically necessary and has
49 written on the prescription order the phrase "medically necessary." An initial
50 prescription order for a drug listed in the narrow therapeutic drug index that
51 does not contain the phrase "medically necessary" shall be considered an

1 order for the drug by its established or generic name, except that a pharmacy
2 shall not substitute a generic or established name prescription drug for
3 subsequent brand or trade name prescription orders of the same prescription
4 drug without explicit oral or written approval of the prescriber given at the
5 time the order is filled. Generic drugs shall be dispensed at a lower cost to
6 the Medical Assistance Program rather than trade or brand-name drugs. As
7 used in this subsection, "brand name" means the proprietary name the
8 manufacturer places upon a drug product or on its container, label, or
9 wrapping at the time of packaging; and "established name" has the same
10 meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic
11 Act, as amended, 21 U.S.C. § 352(e)(3).

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

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

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

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

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

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

46 c. For Medicaid-eligible adults, services provided by licensed or
47 certified psychologists, licensed clinical social workers, certified
48 clinical nurse specialists in psychiatric mental health advanced
49 practice, and nurse practitioners certified as clinical nurse specialists
50 in psychiatric mental health advanced practice, licensed
51 psychological associates, licensed professional counselors, licensed

1 marriage and family therapists, certified clinical addictions
 2 specialists, and licensed clinical supervisors, Medicaid-eligible adults
 3 may be self-referred.

- 4 d. Payments made for services rendered in accordance with this
 5 subdivision shall be to qualified providers in accordance with
 6 approved policies and the State Plan. Nothing in sub-subdivision b.
 7 or c. of this subdivision shall be interpreted to modify the scope of
 8 practice of any service provider, practitioner, or licensee, nor to
 9 modify or attenuate any collaboration or supervision requirement
 10 related to the professional activities of any service provider,
 11 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this
 12 subdivision shall be interpreted to require any private health insurer
 13 or health plan to make direct third-party reimbursements or payments
 14 to any service provider, practitioner, or licensee.

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

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

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

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

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

- 41 (1a) The Department may waive or limit the requirements of this paragraph for
 42 individual Medicaid-enrolled providers or for one or more classes of
 43 Medicaid-enrolled providers based on the following:

- 44 a. The provider's or provider class's dollar amount of monthly billings
 45 to Medicaid.
 46 b. The length of time an individual provider has been licensed,
 47 endorsed, certified, or accredited in this State to provide services.
 48 c. The length of time an individual provider has been enrolled to
 49 provide Medicaid services in this State.
 50 d. The provider's demonstrated ability to ensure adequate record
 51 keeping, staffing, and services.

1 e. The need to ensure adequate access to care.

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

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

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

30 **SECTION 10.58.(f) Exceptions and Limitations on Services; Authorization of**
31 **Co-Payments and Other Services. –**

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

44 **SECTION 10.58.(g) Rules, Reports, and Other Matters. –**

- 45 (1) Rules. – The Department of Health and Human Services may adopt
46 temporary or emergency rules according to the procedures established in
47 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are
48 necessary to maximize receipt of federal funds within existing State
49 appropriations, to reduce Medicaid expenditures, and to reduce fraud and
50 abuse. The Department of Health and Human Services shall adopt rules

1 requiring providers to attend training as a condition of enrollment and may
2 adopt temporary or emergency rules to implement the training requirement.

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

- 9 (2) Changes to Medicaid program; reports. – The Department shall report on
10 any change it anticipates making in the Medicaid program that impacts the
11 type or level of service, reimbursement methods, or waivers, any of which
12 require a change in the State Plan or other approval by the Centers for
13 Medicare and Medicaid Services (CMS). The reports shall be provided at the
14 same time they are submitted to CMS for approval. In addition to the entities
15 listed in subdivision (a)(4) of this section, the report shall be submitted to the
16 Joint Legislative Health Care Oversight Committee.
17

18 DMA CONTRACT SHORTFALL

19 **SECTION 10.59.(a)** Budget approval is required by the Office of State Budget and
20 Management prior to the Department of Health and Human Services, Division of Medical
21 Assistance, entering into any new contract or the renewal or amendment of existing contracts
22 that exceed the current contract amounts.

23 **SECTION 10.59.(b)** The Division of Medical Assistance shall make every effort to
24 effect savings within its operational budget and use those savings to offset its contract shortfall.
25 Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated in this act to
26 cover the contract shortfall in the Division of Medical Assistance if insufficient funds exist
27 within the Division.
28

29 MEDICAID COST CONTAINMENT ACTIVITIES

30 **SECTION 10.60.(a)** The Department of Health and Human Services may use up to
31 five million dollars (\$5,000,000) in the 2009-2010 fiscal year and up to five million dollars
32 (\$5,000,000) in the 2010-2011 fiscal year in Medicaid funds budgeted for program services to
33 support the cost of administrative activities when cost-effectiveness and savings are
34 demonstrated. The funds shall be used to support activities that will contain the cost of the
35 Medicaid Program, including contracting for services, hiring additional staff, or providing
36 grants through the Office of Rural Health and Community Care to plan, develop, and
37 implement cost containment programs.

38 Medicaid cost containment activities may include prospective reimbursement
39 methods, incentive-based reimbursement methods, service limits, prior authorization of
40 services, periodic medical necessity reviews, revised medical necessity criteria, service
41 provision in the least costly settings, plastic magnetic striped Medicaid identification cards for
42 issuance to Medicaid enrollees, fraud detection software or other fraud detection activities,
43 technology that improves clinical decision making, credit balance recovery and data mining
44 services, and other cost containment activities. Funds may be expended under this section only
45 after the Office of State Budget and Management has approved a proposal for the expenditure
46 submitted by the Department. Proposals for expenditure of funds under this section shall
47 include the cost of implementing the cost containment activity and documentation of the
48 amount of savings expected to be realized from the cost containment activity.

49 **SECTION 10.60.(b)** The Department shall provide a copy of proposals for
50 expenditures under this section to the House of Representatives Appropriations Subcommittee
51 on Health and Human Services, the Senate Appropriations Committee on Health and Human

1 Services, and the Fiscal Research Division. On or before April 1, 2010, the Department shall
2 report on the methods used to achieve savings and the amount saved by these methods. If the
3 Department deploys fraud detection software, a report on the software implementation and
4 fraud detection results shall be submitted to the House and Senate Appropriations
5 Subcommittees on Health and Human Services and the Fiscal Research Division of the General
6 Assembly not later than April 1, 2010.

8 **MEDICAID SPECIAL FUND TRANSFER**

9 **SECTION 10.61.** Of the funds transferred to the Department of Health and Human
10 Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the
11 Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three
12 million dollars (\$43,000,000) for the 2009-2010 fiscal year and the sum of forty-three million
13 dollars (\$43,000,000) for the 2010-2011 fiscal year. These funds shall be allocated as
14 prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in
15 G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall
16 replace the reduction in general revenue funding effected in this act. The Department may also
17 use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share
18 Hospital payment audit issues between the Department of Health and Human Services and the
19 federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund
20 for the 2009-2010 fiscal year for this purpose.

22 **EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS** 23 **REIMBURSEMENT SYSTEM**

24 **SECTION 10.62.** Full implementation for the Community Alternatives Programs
25 reimbursement system shall be not later than 12 months after the date on which the replacement
26 Medicaid Management Information System becomes operational and stabilized.

28 **DMA REDUCTION OPTION FLEXIBILITY**

29 **SECTION 10.63.(a)** The Department of Health and Human Services, Division of
30 Medical Assistance, shall, in consultation with provider groups and other interested parties,
31 review ways to improve health care quality, ensure appropriate use of services, improve clinical
32 outcomes, and reduce the cost of care for beneficiaries with medically complex conditions as
33 well as to strengthen fraud and abuse oversight efforts. In the review the Division shall explore
34 all viable options to improve the quality of care and to control health care costs, including, but
35 not limited to, the following options:

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

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

8 **SECTION 10.63.(b)** In order to consider all proposals prior to preparing
9 adjustments to the fiscal year 2010-2011 budget, the Division shall report its recommendations
10 on methods to better manage and save Medicaid costs to the Governor's Office by January 15,
11 2010. All proposals shall include the steps necessary for implementation, including time
12 frames, and the amount of projected savings over a five-year period.

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

14 **SECTION 10.64.(a)** Receivables reserved at the end of the 2009-2010 and
15 2010-2011 fiscal years shall, when received, be accounted for as nontax revenue for each of
16 those fiscal years.

17 **SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and
18 Human Services shall deposit from its revenues one hundred twenty-four million nine hundred
19 ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of
20 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the
21 Department of Health and Human Services shall deposit from its revenues one hundred million
22 dollars (\$100,000,000) with the Department of State Treasurer to be accounted for as nontax
23 revenue. Any revenue collected in each of the fiscal years in excess of one of the amounts
24 listed above shall be reserved by the State Treasurer in the Department's account for future
25 appropriations by the General Assembly. These deposits shall represent the return of General
26 Fund appropriations provided to the Department of Health and Human Services to provide
27 indigent care services at State-owned and operated mental hospitals. The treatment of any
28 revenue derived from federal programs shall be in accordance with the requirements specified
29 in the Code of Federal Regulations, Volume 2, Part 225.

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

33 **SECTION 10.65.(a)** Subject to approval from the Centers for Medicare and
34 Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical
35 Assistance, shall, in consultation with the Division of Mental Health, Developmental
36 Disabilities, and Substance Abuse Services, and Community Alternatives Program (CAP)
37 stakeholders, develop a schedule of cost-sharing requirements for families of children with
38 incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid
39 expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation
40 and Developmentally Disabled) and the CAP-C (Community Alternatives Program for
41 Children). The cost-sharing amounts shall be based on a sliding scale of family income and
42 shall take into account the impact on families with more than one child in the CAP programs.
43 In developing the schedule, the Department shall also take into consideration how other states
44 have implemented cost-sharing in their CAP programs. The Division of Medical Assistance
45 may establish monthly deductibles as a means of implementing this cost-sharing. The
46 Department shall provide for at least one public hearing and other opportunities for individuals
47 to comment on the imposition of cost-sharing under the CAP program schedule.

48 **SECTION 10.65.(b)** The Division of Medical Assistance shall also, in
49 collaboration with the Controller's Office of the Department of Health and Human Services, the
50
51

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

4 **SECTION 10.65.(c)** Prior to seeking approval from CMS, but not later than
5 October 1, 2009, the Department shall report to the Joint Legislative Oversight Committee on
6 Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding
7 Needs, and to the Senate Appropriations Committee on Health and Human Services, the House
8 of Representatives Appropriations Subcommittee on Health and Human Services, and the
9 Fiscal Research Division. The report shall include a summary of comments the Department has
10 received at the public hearing, business rules, policies and procedures, and technical
11 requirements of the initiative and shall also indicate any barriers to implementing the
12 cost-sharing.

13 14 **PREFERRED DRUG LIST PROGRAM**

15 **SECTION 10.66.(a)** In the event insufficient savings are realized from enhancing
16 the utilization management of the Prescription Advantage List, increasing the utilization of
17 generic drugs in place of brand-name drugs and increasing rebate collections on generic drugs,
18 the Department of Health and Human Services shall establish and implement a preferred drug
19 list program under the Division of Medical Assistance. The Department shall submit a medical
20 assistance State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) of
21 the United States Department of Health and Human Services to implement the program.

22 **SECTION 10.66.(b)** The pharmaceutical and therapeutics committee of the
23 Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list.
24 Members of the committee shall submit conflict of interest disclosure statements to the
25 Department and shall have an ongoing duty to disclose conflicts of interest not included in the
26 original disclosure.

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

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

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

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

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

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

1 **SECTION 10.66.(d)** This section becomes effective if the Department cannot
2 demonstrate by June 1, 2010, that twenty million seven hundred ninety-one thousand two
3 hundred sixty-four dollars (\$20,791,264) in prescription drug savings have been realized by
4 employing the methods outlined in subsection (a) of this section.

5 6 **MEDICAID APPEALS/FUNDS DO NOT REVERT**

7 **SECTION 10.67.** Funds transferred from the Department of Health and Human
8 Services to the Office of Administrative Hearings in the 2008-2009 fiscal year for mediation
9 services shall not revert to the General Fund on June 30, 2009, but shall remain in the Office of
10 Administrative Hearings for the purposes for which the funds were transferred.

11 12 **CLARIFYING CHANGES TO STATE MEDICAID RESPONSIBILITIES**

13 **SECTION 10.68.** Consistent with Sections 31.16.1(c) and (d) of S.L. 2007-323
14 that require the State to assume responsibility for the nonfederal share of the costs of medical
15 services provided under the Medicaid Program starting June 1, 2009, the counties shall neither
16 bear any responsibility for settlement payments to providers nor refunds of expenditures for
17 program service claims paid on or before June 1, 2009. Counties will continue to participate in
18 their share of administrative costs.

19 20 **CO-PAYMENTS FOR TICKET TO WORK**

21 **SECTION 10.69.** G.S. 108A-54.1(d) reads as rewritten:
22 "**§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

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

36 37 **MEDICAID FALSE CLAIMS**

38 **SECTION 10.70.(a)** G.S. 108A-70.11(5) reads as rewritten:
39 "(5) "Medical Assistance Program" means the Medical Assistance Program
40 established pursuant to G.S. 108A-54 and includes the North Carolina
41 Division of Medical Assistance and or its fiscal agent."

42 **SECTION 10.70.(b)** G.S. 108A-70.12(a) reads as rewritten:
43 "**§ 108A-70.12. Liability for certain acts; damages; effect of repayment.**

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

- 46 (1) Knowingly present, or cause to be presented to the Medical Assistance
47 Program a false or fraudulent claim for payment or ~~approval;~~ or approval.
- 48 (2) Knowingly make, use, or cause to be made or used a false record or
49 statement to get a false or fraudulent claim paid or approved by the Medical
50 Assistance ~~Program.~~ Program.

- 1 (3) Conspire to defraud the Medical Assistance Program by obtaining a false or
2 fraudulent claim allowed or paid.
3 (4) Knowingly make, use, or cause to be made or used, a false record or
4 statement to conceal, avoid, or decrease an obligation to pay or transmit
5 money or property to the Medical Assistance Program. Each claim presented
6 or caused to be presented in violation of this section is a separate violation."

7 **SECTION 10.70.(c)** G.S. 108A-70.12(b)(1) reads as rewritten:

8 "(b) Damages. –

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

16 **SECTION 10.70.(d)** Article 2 of Chapter 108A of the General Statutes is amended
17 by adding the following new Part to read:

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

19 "**§ 108A-70.17. Civil action filed by private persons.**

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

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

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

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

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

46 "**§ 108A-70.17A. Rights of private plaintiff and State.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 **"§ 108A-70.17B. Award to qui tam plaintiff.**

49 (a) Except as otherwise provided in this section, if the State proceeds with an action
50 brought by a person under G.S. 108A-70.17, the person shall receive at least fifteen percent
51 (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement

1 of the claim, if any, depending upon the extent to which the person substantially contributed to
2 the prosecution of the action. The plaintiff's share in the proceeds of the action or settlement is
3 administrative costs of the action. A share of the proceeds of an action or settlement of the
4 claim shall not be awarded to the person initiating the action in State court under this Part if the
5 person has received or may receive a share of the proceeds or settlement of an action or claim
6 on the same facts brought in federal court. Where the action is one that the court finds to be
7 based primarily on disclosures of specific information, other than information proved by the
8 person initiating the action, relating to allegations or transactions in a criminal, civil, or
9 administrative hearing, in a legislative, administrative, or State Auditor's report, hearing, audit,
10 or investigation, or from the news media, the court may reduce the award under this subsection
11 to such sums as it considers appropriate, but in no case more than ten percent (10%) of the
12 proceeds of the action, taking into account the significance of the information and the role of
13 the person initiating the action in advancing the case to litigation.

14 (b) If the State does not proceed with an action, the person initiating the action or
15 settling the claim shall receive an amount that the court decides is reasonable for collecting the
16 civil penalty and damages, if awarded. The amount shall be not less than twenty-five percent
17 (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and
18 shall be paid out of the proceeds.

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

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

31 **"§ 108A-70.17C. Certain actions barred.**

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

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

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

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

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

1 **"§ 108A-70.17D. Procedure; statute of limitations.**

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

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

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

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

10 **SECTION 10.70.(e)** G.S. 108A-70.15 reads as rewritten:

11 **"§ 108A-70.15. Employee remedies.**

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

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

28 **SECTION 10.70.(f)** Provided that the Medicaid False Claims State legislation is
29 adopted, and the State legislation meets federal Center for Medicare and Medicaid Services
30 criteria to receive ten percent (10%) bonuses subject to the False Claims Act, the Department of
31 Health and Human Services, Division of Medical Assistance, shall transfer three hundred
32 fifty-two thousand one hundred thirty-six dollars (\$352,136) in fiscal year 2010-2011, and each
33 year thereafter, to fund five permanent staff positions at the Attorney General's Office
34 necessary to implement the Medicaid False Claims Act.

35 **SECTION 10.70.(g)** Subsection (b) of this section becomes effective December 1,
36 2009, and applies to offenses committed on or after that date. The remainder of this section
37 becomes effective July 1, 2009, and applies to civil actions that accrue on or after that date.

38
39 **PROVIDER RATES**

40 **SECTION 10.71.** The Department of Health and Human Services shall freeze rates
41 for fiscal year 2009-2010 for most Medicaid providers at the level authorized in fiscal year
42 2008-2009. The rate freeze applies to all Medicaid private and public providers with the
43 following exceptions: federally qualified health clinics, rural health centers, State institutions,
44 outpatient hospital, pharmacy, and the noninflationary components of the case-mix
45 reimbursement system for nursing facilities. Medicaid rates predicated upon Medicare fee
46 schedules shall follow Medicare reductions but not Medicare increases unless federally
47 required. Inflationary increases for Medicaid providers paying provider fees (private ICF-MRs
48 and nursing facilities) can occur if the State share of the increases can be funded with provider
49 fees.

50
51 **MEDICAID WAIVER FOR LOW-INCOME PERSONS WITH HIV**

1 **SECTION 10.72.** The Department of Health and Human Services, Division of
2 Medical Assistance, shall study whether to apply to the Centers for Medicare and Medicaid
3 Services (CMS) for a 1115 waiver to permit individuals who test positive for HIV and have
4 incomes at or below two hundred percent (200%) of the federal poverty level to access
5 Medicaid services. The study shall determine the number of people who may be eligible, and
6 the financial, programmatic, and technical impact of the waiver. The Department shall report
7 on the results of its study of the waiver to the Senate Appropriations Committee on Health and
8 Human Services, the House of Representatives Appropriations Subcommittee on Health and
9 Human Services, and the Fiscal Research Division not later than December 31, 2009.

10 11 **MAINTAIN MEDICAID ELIGIBILITY**

12 **SECTION 10.73.** The Department of Health and Human Services, Division of
13 Medical Assistance, shall study policies that will prevent a Medicaid recipient from losing
14 Medicaid eligibility when the annual Social Security and Railroad Retirement Cost of Living
15 Adjustments (COLAs) and the annual Federal Poverty Level adjustment cause a Medicaid
16 recipient to become income-ineligible for Medicaid. The policies shall apply only in cases
17 where Medicaid income eligibility is affected only by Social Security and Railroad Retirement
18 COLAs and Federal Poverty Level adjustments and shall not render a Medicaid recipient
19 eligible if all other eligibility requirements are not met. The Department shall report the results
20 of the study to the Senate Appropriations Committee on Health and Human Services, the House
21 of Representatives Appropriations Subcommittee on Health and Human Services, and the
22 Fiscal Research Division on or before December 31, 2009. The Department shall also study
23 policies that allow individuals who are at or marginally above Medicaid income limits to buy-in
24 to Medicaid coverage on a sliding fee scale.

25 26 **REDUCE INFANT MORTALITY AND PRETERM BIRTHS**

27 **SECTION 10.74.(a)** The Department of Health and Human Services, Division of
28 Medical Assistance, shall seek a Medicaid 1115 waiver or implement other available Medicaid
29 options to provide interconceptional coverage to low-income women with incomes below one
30 hundred eighty-five percent (185%) of the federal poverty guidelines who have given birth to a
31 high-risk infant. A high-risk infant is defined as weighing less than 1500 grams, is born less
32 than 34 weeks gestation, is born with a congenital anomaly, or who has died within the first 28
33 days of life.

34 **SECTION 10.74.(b)** Interconceptional care shall be limited to two years following
35 the birth of a high-risk infant, or until a subsequent birth, whichever comes first.

36 **SECTION 10.74.(c)** The Division is authorized to develop a benefit package to
37 improve interconceptional care to decrease poor birth outcomes in subsequent pregnancies.

38 **SECTION 10.74.(d)** The Division shall provide estimates of the cost savings from
39 improved birth outcomes that will offset the cost of providing Medicaid coverage to this
40 targeted population. The Division shall report the status of the waiver to the Senate
41 Appropriations Committee on Health and Human Services, the House of Representatives
42 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
43 Division on or before October 1, 2009. The Division shall not implement the waiver unless
44 authorized by an act of the General Assembly.

45 46 **NC NOVA**

47 **SECTION 10.75.** The Department of Health and Human Services, Division of
48 Health Services Regulation, may use up to eighty-eight thousand dollars (\$88,000) for fiscal
49 year 2009-2010 and ninety-three thousand seven hundred dollars (\$93,700) for fiscal year
50 2010-2011 of existing resources to continue the NC New Organizational Vision Award

1 certification program. The Division shall use federal civil monetary penalty receipts as a source
2 of support for this initiative, when appropriate.

3 4 **DHSR LICENSE FEE INCREASES**

5 **SECTION 10.76.(a)** G.S. 131D-2(b) reads as rewritten:

6 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

7 (b) Licensure; inspections. –

8 (1) The Department of Health and Human Services shall inspect and license,
9 under rules adopted by the Medical Care Commission, all adult care homes
10 for persons who are aged or mentally or physically disabled except those
11 exempt in subsection (c) of this section. Licenses issued under the authority
12 of this section shall be valid for one year from the date of issuance unless
13 revoked earlier by the Secretary for failure to comply with any part of this
14 section or any rules adopted hereunder. Licenses shall be renewed annually
15 upon filing and the Department's approval of the renewal application. The
16 Department shall charge each adult care home with six or fewer beds a
17 nonrefundable annual license fee in the amount of ~~two hundred fifty dollars~~
18 ~~(\$250.00)~~three hundred fifteen dollars (\$315.00). The Department shall
19 charge each adult care home with more than six beds a nonrefundable annual
20 license fee in the amount of ~~three hundred fifty dollars (\$350.00)~~three
21 hundred sixty dollars (\$360.00) plus a nonrefundable annual per-bed fee of
22 ~~twelve dollars and fifty cents (\$12.50)~~seventeen dollars and fifty cents
23 (\$17.50)."

24 **SECTION 10.76.(b)** G.S. 131E-147 reads as rewritten:

25 **"§ 131E-147. Licensure requirement.**

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

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

36 **SECTION 10.76.(c)** G.S. 131E-167(a) reads as rewritten:

37 **"§ 131E-167. Certificate requirement.**

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

46 **SECTION 10.76.(d)** G.S. 131E-138(c) reads as rewritten:

47 **"§ 131E-138. Licensure requirements.**

48 (c) An application for a license shall be available from the Department, and each
49 application filed with the Department shall contain all information requested by the
50 Department. A license shall be granted to the applicant upon a determination by the
51 Department that the applicant has complied with the provisions of this Part and the rules

1 promulgated by the Commission under this Part. The Department shall charge the applicant a
 2 nonrefundable annual license fee in the amount of ~~four hundred dollars (\$400.00)~~ five hundred
 3 ten dollars (\$510.00)."

4 **SECTION 10.76.(e)** G.S. 131E-77 reads as rewritten:

5 "**§ 131E-77. Licensure requirement.**

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

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

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

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

20 Facility Type	Number of Beds	Base Fee	Per-Bed Fee
21 General Acute Hospitals:	1-49 beds	\$250.00	\$12.50 <u>\$17.50</u>
	22 50-99 beds	\$350.00	\$12.50 <u>\$17.50</u>
	23 100-199 beds	\$450.00	\$12.50 <u>\$17.50</u>
	24 200-399 beds	\$550.00	\$12.50 <u>\$17.50</u>
	25 400-699 beds	\$750.00	\$12.50 <u>\$17.50</u>
26 Other Hospitals:	700+ beds	\$950.00	\$12.50 <u>\$17.50</u>
		\$500.00	\$12.50 <u>\$17.50</u>

27
 28
 29 (e) The Department shall issue the license to the operator of the hospital who shall not
 30 transfer or assign it except with the written approval of the Department. The license shall
 31 designate the number and types of inpatient beds, the number of operating rooms, and the
 32 number of gastrointestinal endoscopy rooms.

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

35 **SECTION 10.76.(f)** G.S. 122C-23(h) reads as rewritten:

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

39 Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
41 Facilities (non-ICF/MR):	0 beds	\$175.00 <u>\$215.00</u>	\$0
	42 1 to 6 beds	\$250.00 <u>\$305.00</u>	\$0
	43 More than 6 beds	\$350.00 <u>\$475.00</u>	\$12.50 <u>\$17.50</u>
44 ICF/MR Only:	1 to 6 beds	\$650.00 <u>\$845.00</u>	\$0
	45 More than 6 beds	\$650.00 <u>\$800.00</u>	\$12.50 <u>\$17.50</u> "

46 **SECTION 10.76.(g)** G.S. 131E-102(b) reads as rewritten:

47 "(b) Applications shall be available from the Department, and each application filed with
 48 the Department shall contain all necessary and reasonable information that the Department may
 49 by rule require. A license shall be granted to the applicant upon a determination by the
 50 Department that the applicant has complied with the provisions of this Part and the rules
 51 promulgated under this Part. The Department shall charge the applicant a nonrefundable annual

license fee in the amount of ~~four hundred fifty dollars (\$450.00)~~ four hundred twenty dollars (\$420.00) plus a nonrefundable annual per-bed fee of ~~twelve dollars and fifty cents (\$12.50)~~ seventeen dollars and fifty cents (\$17.50)."

DHSR INITIAL LICENSURE FEES NEW FACILITIES

SECTION 10.77. Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-272. Initial licensure fees for new facilities.

The following fees are initial licensure fees for new facilities and are applicable as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Initial License Fee</u>	<u>Initial Bed Fee</u>
<u>Adult Care Licensure</u>	<u>More than 6</u>	<u>\$400.00</u>	<u>\$19.00</u>
	<u>6 or Fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
<u>Acute and Home Care</u>			
<u>General Acute Hospitals</u>	<u>1-49</u>	<u>\$550.00</u>	<u>\$19.00</u>
	<u>50-99</u>	<u>\$750.00</u>	<u>\$19.00</u>
	<u>100-199</u>	<u>\$950.00</u>	<u>\$19.00</u>
	<u>200-399</u>	<u>\$1150.00</u>	<u>\$19.00</u>
	<u>400-699</u>	<u>\$1550.00</u>	<u>\$19.00</u>
	<u>700+</u>	<u>\$1950.00</u>	<u>\$19.00</u>
<u>Other Hospitals</u>		<u>\$1050.00</u>	<u>\$19.00</u>
<u>Home Care</u>	=	<u>\$560.00</u>	<u>\$ -</u>
<u>Ambulatory Surgical Ctrs.</u>	=	<u>\$900.00</u>	<u>\$85.00</u>
<u>Hospice (Free Standing)</u>	=	<u>\$450.00</u>	<u>\$ -</u>
<u>Abortion Clinics</u>	=	<u>\$750.00</u>	<u>\$ -</u>
<u>Cardiac Rehab. Centers</u>	=	<u>\$425.00</u>	<u>\$ -</u>
<u>Nursing Home & L&C</u>			
<u>Nursing Homes</u>		<u>\$470.00</u>	<u>\$19.00</u>
<u>All Others</u>		<u>\$ -</u>	<u>\$19.00</u>
<u>Mental Health Facilities</u>			
<u>Nonresidential</u>		<u>\$265.00</u>	<u>\$ -</u>
<u>Non ICF-MR</u>	<u>6 or fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
<u>ICF-MR only</u>	<u>6 or fewer</u>	<u>\$900.00</u>	<u>\$ -</u>
<u>Non ICF-MR</u>	<u>More than 6</u>	<u>\$525.00</u>	<u>\$19.00</u>
<u>ICF-MR only</u>	<u>More than 6</u>	<u>\$850.00</u>	<u>\$19.00.</u> "

DHHS BLOCK GRANTS

SECTION 10.78.(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
(TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services

1	01.	Work First Family Assistance (Cash Assistance)	\$87,518,579
2			
3	02.	Work First County Block Grants	94,453,315
4			
5	03.	Child Protective Services – Child Welfare	
6		Workers for Local DSS	14,452,391
7			
8	04.	Work First – Boys and Girls Clubs	800,000
9			
10	05.	Work First – Connect, Inc.	67,523
11			
12	06.	Child Welfare Collaborative	887,517
13			
14		Division of Child Development	
15			
16	07.	Subsidized Child Care Program	61,087,077
17			
18		Division of Public Health	
19			
20	08.	Teen Pregnancy Prevention Initiatives	450,000
21			
22		DHHS Administration	
23			
24	09.	Division of Social Services	1,093,176
25			
26	10.	Office of the Secretary	75,392
27			
28	11.	Office of the Secretary/DIRM – TANF	
29		Automation Projects	720,000
30			
31	12.	Office of the Secretary/DIRM – NC FAST	
32		Implementation	1,200,000
33			
34		Transfers to Other Block Grants	
35			
36		Division of Child Development	
37			
38	13.	Transfer to the Child Care and	
39		Development Fund	84,330,900
40			
41		Division of Social Services	
42			
43	14.	Transfer to Social Services Block Grant for Child	
44		Protective Services – Child Welfare Training in	
45		Counties	2,550,000
46			
47	15.	Transfer to Social Services Block Grant for	
48		Maternity Homes	60,503
49			
50	16.	Transfer to Social Services Block Grant for Teen	
51		Pregnancy Prevention Initiatives	2,500,000

1			
2	17.	Transfer to Social Services Block Grant for County	
3		Departments of Social Services for Children's Services	4,500,000
4			
5	18.	Transfer to Social Services Block Grant for	
6		Foster Care Services	390,000
7			
8	19.	Transfer to Social Services Block Grant for	
9		Medically Fragile Children	260,000
10			
11		TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
12		(TANF) BLOCK GRANT	\$357,396,373
13			
14		TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
15		(TANF) CONTINGENCY FUNDS BLOCK GRANT	
16			
17		Local Program Expenditures	
18			
19		Division of Social Services	
20			
21	01.	Work First Family Assistance (Cash Assistance)	\$1,857,193
22			
23	02.	Work First – Boys and Girls Clubs	1,200,000
24			
25	03.	Work First – Afterschool Services	
26		For At-Risk Children	1,229,785
27			
28	04.	Work First – Afterschool Programs	
29		For At-Risk Youth in Middle Schools	300,000
30			
31	05.	Work First – Connect, Inc. (Work Central)	301,025
32			
33	06.	Work First – Citizens Schools Program	360,000
34			
35	07.	County Demonstration Grants	3,239,789
36			
37	08.	Adoption Services – Special Children's Adoption Fund	3,000,000
38			
39	09.	Family Violence Prevention	2,200,000
40			
41	10.	Child Welfare Collaborative	987,995
42			
43	11.	Work First Functional Assessment	600,000
44			
45	12.	Electing County State Funding Swap Out	2,378,213
46			
47	13.	State Subsidized Child Care Funding Swap	12,452,484
48			
49		TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
50		(TANF) CONTINGENCY FUNDS BLOCK GRANT	\$30,106,484
51			

1	SOCIAL SERVICES BLOCK GRANT	
2		
3	Local Program Expenditures	
4		
5	Divisions of Social Services and Aging and Adult Services	
6		
7	01. County Departments of Social Services	\$ 28,868,189
8	(Transfer from TANF – \$4,500,000)	
9		
10	02. State In-Home Services Fund	2,101,113
11		
12	03. State Adult Day Care Fund	2,155,301
13		
14	04. Child Protective Services/CPS Investigative	
15	Services-Child Medical Evaluation Program	243,121
16		
17	05. Foster Care Services	2,372,619
18	(Transfer from TANF – \$390,000)	
19		
20	06. Maternity Homes (Transfer from TANF – \$60,503)	943,002
21		
22	07. Special Children Adoption Incentive Fund	500,000
23		
24	08. Child Protective Services-Child Welfare Training	
25	for Counties	2,550,000
26	(Transfer from TANF)	
27		
28	Division of Aging and Adult Services	
29		
30	09. Home and Community Care Block Grant (HCCBG)	1,834,077
31		
32	Division of Mental Health, Developmental Disabilities, and Substance	
33	Abuse Services	
34		
35	10. Mental Health Services Program	422,003
36		
37	11. Developmental Disabilities Services Program	5,000,000
38		
39	12. Mental Health Services-Adult and	
40	Child/Developmental Disabilities Program/	
41	Substance Abuse Services-Adult	3,234,601
42		
43	Division of Child Development	
44		
45	13. Subsidized Child Care Program	3,150,000
46		
47	Division of Vocational Rehabilitation	
48		
49	14. Vocational Rehabilitation Services – Easter Seal	
50	Society/UCP Community Health Program	188,263
51		

1	Division of Public Health	
2		
3	15. Teen Pregnancy Prevention Initiatives	2,500,000
4	(Transfer from TANF)	
5		
6	16. Services for Medically Fragile Children	
7	(Transfer from TANF – \$260,000)	360,000
8		
9	DHHS Program Expenditures	
10		
11	Division of Aging and Adult Services	
12		
13	17. UNC-CARES Training Contract	247,920
14		
15	Division of Services for the Blind	
16		
17	18. Independent Living Program	3,714,211
18		
19	Division of Health Service Regulation	
20		
21	19. Adult Care Licensure Program	411,897
22		
23	20. Mental Health Licensure and Certification Program	205,668
24		
25	DHHS Administration	
26		
27	21. Division of Aging and Adult Services	688,436
28		
29	22. Division of Social Services	892,624
30		
31	23. Office of the Secretary/Controller's Office	138,058
32		
33	24. Office of the Secretary/DIRM	87,483
34		
35	25. Division of Child Development	15,000
36		
37	26. Division of Mental Health, Developmental	
38	Disabilities, and Substance Abuse Services	29,665
39		
40	27. Division of Health Service Regulation	235,625
41		
42	28. Office of the Secretary-NC Inter-Agency Council	
43	For Coordinating Homeless Programs	250,000
44		
45	29. Office of the Secretary	48,053
46		
47	Transfers to Other State Agencies	
48		
49	Department of Administration	
50		
51	30. NC Commission of Indian Affairs In-Home	

1	Services for the Elderly	203,198
2		
3	Transfers to Other Block Grants	
4		
5	Division of Public Health	
6		
7	31. Transfer to Preventive Health Services Block Grant	
8	For HIV/STD Prevention and Community Planning	145,819
9		
10	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 63,735,946
11		
12	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	
13		
14	Local Program Expenditures	
15		
16	Division of Social Services	
17		
18	01. Low-Income Energy Assistance Program (LIEAP)	\$ 25,909,124
19		
20	02. Crisis Intervention Program (CIP)	20,224,269
21		
22	Office of the Secretary – Office of Economic Opportunity	
23		
24	03. Weatherization Program	1,000,000
25		
26	04. Heating Air Repair & Replacement Program (HARRP)	3,385,583
27		
28	Local Administration	
29		
30	Division of Social Services	
31		
32	05. County DSS Administration	3,608,360
33		
34	Office of the Secretary – Office of Economic Opportunity	
35		
36	06. Local Residential Energy Efficiency Service	
37	Providers – Weatherization	420,035
38		
39	07. Local Residential Energy Efficiency Service	
40	Providers – HARRP	195,910
41		
42	DHHS Administration	
43		
44	08. Division of Social Services	275,000
45		
46	09. Division of Mental Health, Developmental	
47	Disabilities, and Substance Abuse Services	8,128
48		
49	10. Office of the Secretary/DIRM	269,935
50		
51	11. Office of the Secretary/Controller's Office	12,332

1			
2	12.	Office of the Secretary/Office of Economic	
3		Opportunity – Weatherization	294,874
4			
5	13.	Office of the Secretary/Office of Economic	
6		Opportunity – HARRP	137,574
7			
8		Transfers to Other State Agencies	
9			
10	14.	Department of Administration –	
11		N.C. State Commission of Indian Affairs	67,042
12			
13		TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
14		BLOCK GRANT	\$ 55,808,166
15			
16		CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
17			
18		Local Program Expenditures	
19			
20		Division of Child Development	
21			
22	01.	Subsidized Child Care Services (CCDF)	\$144,097,307
23			
24	02.	Contract Subsidized Child Care Services Support	507,617
25			
26	03.	Subsidized Child Care Services	
27		(Transfer from TANF)	84,330,900
28			
29	04.	Quality and Availability Initiatives	20,760,876
30			
31	05.	T.E.A.C.H. Program	3,800,000
32			
33		Division of Social Services	
34			
35	06.	Local Subsidized Child Care Services Support	\$16,594,417
36			
37		DHHS Administration	
38			
39		Division of Child Development	
40			
41	07.	DCD Administrative Expenses	6,539,277
42			
43		Division of Central Administration	
44			
45	08.	DHHS Central Administration – DIRM	
46		Technical Services	763,356
47			
48		TOTAL CHILD CARE AND DEVELOPMENT FUND	
49		BLOCK GRANT	\$277,393,750
50			

1	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH	
2	THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
3		
4	Local Program Expenditures	
5		
6	Division of Child Development	
7		
8	01. Subsidized Child Care Services (CCDF)	
9	(High Quality Four-Year-Old Classrooms)	\$53,993,329
10		
11	02. Contract Subsidized Child Care Services Support	29,030
12		
13	DHHS Program Expenditures	
14		
15	Division of Child Development	
16		
17	03. Quality and Availability Initiatives	11,519,144
18		
19	Local Administration	
20		
21	Division of Social Services	
22		
23	04. Subsidy Services Support	2,001,631
24		
25	TOTAL CHILD CARE AND DEVELOPMENT FUND	
26	BLOCK GRANT RECEIVED THROUGH ARRA	\$67,543,143
27		
28	MENTAL HEALTH SERVICES BLOCK GRANT	
29		
30	Local Program Expenditures	
31		
32	01. Mental Health Services – Adult	\$ 5,977,762
33		
34	02. Mental Health Services – Child	3,921,991
35		
36	03. Comprehensive Treatment Service Program	1,500,000
37		
38	04. Mental Health Services – UNC School of Medicine,	
39	Department of Psychiatry	300,000
40		
41	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 11,699,753
42		
43	SUBSTANCE ABUSE PREVENTION	
44	AND TREATMENT BLOCK GRANT	
45		
46	Local Program Expenditures	
47		
48	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
49		
50	01. Substance Abuse Services – Adult	\$ 22,258,080
51		

1	02.	Substance Abuse Treatment Alternative for	
2		Women	8,069,524
3			
4	03.	Substance Abuse – HIV and IV Drug	5,116,378
5			
6	04.	Substance Abuse Prevention – Child	7,186,857
7			
8	05.	Substance Abuse Services – Child	4,940,500
9			
10	06.	Implementation – Institute of Medicine's	
11		Study Recommendations	250,000
12			
13		Division of Public Health	
14			
15	07.	Risk Reduction Projects	633,980
16			
17	08.	Aid-to-Counties	209,576
18			
19	09.	Maternal Health	37,779
20			
21	TOTAL SUBSTANCE ABUSE PREVENTION		
22	AND TREATMENT BLOCK GRANT		\$ 48,702,674
23			
24	MATERNAL AND CHILD HEALTH BLOCK GRANT		
25			
26	Local Program Expenditures		
27			
28		Division of Public Health	
29			
30	01.	Children's Health Services	7,534,865
31			
32	02.	Women's Health	7,701,691
33			
34	03.	Oral Health	38,041
35			
36	DHHS Program Expenditures		
37			
38		Division of Public Health	
39			
40	04.	Children's Health Services	1,359,636
41			
42	05.	Women's Health	135,452
43			
44	06.	State Center for Health Statistics	179,483
45			
46	07.	Quality Improvement in Public Health	14,646
47			
48	08.	Health Promotion	88,746
49			
50	09.	Office of Minority Health	55,250
51			

1	10. Immunization Program – Vaccine Distribution	382,648
2		
3	DHHS Administration	
4		
5	Division of Public Health	
6		
7	11. Division of Public Health Administration	631,966
8		
9	TOTAL MATERNAL AND CHILD	
10	HEALTH BLOCK GRANT	\$ 18,122,424
11		
12	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
13		
14	Local Program Expenditures	
15		
16	Division of Public Health	
17		
18	01. NC Statewide Health Promotion	\$1,730,653
19		
20	02. Services to Rape Victims	197,112
21		
22	03. HIV/STD Prevention and Community Planning	
23	(Transfer from Social Services Block Grant)	145,819
24		
25	DHHS Program Expenditures	
26		
27	Division of Public Health	
28		
29	04. NC Statewide Health Promotion	1,699,044
30		
31	05. Oral Health	70,000
32		
33	06. State Laboratory of Public Health	16,600
34		
35	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$3,859,228
36		
37	COMMUNITY SERVICES BLOCK GRANT	
38		
39	Local Program Expenditures	
40		
41	Office of Economic Opportunity	
42		
43	01. Community Action Agencies	\$ 16,673,336
44		
45	02. Limited Purpose Agencies	926,297
46		
47	DHHS Administration	
48		
49	03. Office of Economic Opportunity	926,296
50		
51	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 18,525,929

1
2 COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN
3 RECOVERY AND REINVESTMENT ACT (ARRA)

4
5 Local Program Expenditures

6
7 Office of Economic Opportunity

8
9 01. Community Action Agencies \$ 20,558,585

10
11 02. Limited Purpose Agencies 1,093,541

12
13 DHHS Administration

14
15 03. Office of Economic Opportunity 218,709

16
17 TOTAL COMMUNITY SERVICES BLOCK GRANT
18 RECEIVED THROUGH ARRA \$ 21,870,834

19
20 **GENERAL PROVISIONS**

21 **SECTION 10.78.(b)** Changes in Federal Fund Availability. – If the Congress of
22 the United States increases the federal fund availability for any of the Block Grants
23 administered by the Department of Health and Human Services from the amounts appropriated
24 in this section, the Department shall allocate the increase proportionally across the program and
25 activity appropriations identified for that Block Grant in this section. In allocating an increase
26 in federal fund availability, the Department shall not propose funding for new programs or
27 activities not appropriated in this section.

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

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

40 **SECTION 10.78.(c)** Appropriations from federal block grant funds are made for
41 the fiscal year ending June 30, 2010, according to the schedule enacted for State fiscal year
42 2009-2010 or until a new schedule is enacted by the General Assembly.

43 **SECTION 10.78.(d)** All changes to the budgeted allocations to the Block Grants
44 administered by the Department of Health and Human Services that are not specifically
45 addressed in this section shall be approved by the Office of State Budget and Management, and
46 a report shall be submitted to the Joint Legislative Commission on Governmental Operations
47 for review prior to implementing the changes. All changes to the budgeted allocations to the
48 Block Grants shall be reported immediately to the House of Representatives Appropriations
49 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
50 and Human Services, and the Fiscal Research Division. This subsection does not apply to
51 Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 10.78.(e) The sum of one million ninety-three thousand one hundred seventy-six dollars (\$1,093,176) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.78.(f) The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in TANF Contingency funds to the Department of Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2009. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2009, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2009. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 10.78.(g) The sum of one million two hundred twenty-nine thousand seven hundred eighty-five dollars (\$1,229,785) appropriated in this section in TANF Contingency funds to the Department of Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

SECTION 10.78.(h) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2009-2010 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train,

1 license, and support prospective foster and adoptive families; and to provide interstate and
2 post-adoption services for eligible families.

3 **SECTION 10.78.(i)** The sum of three million dollars (\$3,000,000) appropriated in
4 this section in TANF Contingency funds to the Department of Health and Human Services,
5 Special Children Adoption Fund, for the 2009-2010 fiscal year shall be used in accordance with
6 G.S. 108A-50.2, as enacted in Section 10.48 of this act. The Division of Social Services, in
7 consultation with the North Carolina Association of County Directors of Social Services and
8 representatives of licensed private adoption agencies, shall develop guidelines for the awarding
9 of funds to licensed public and private adoption agencies upon the adoption of children
10 described in G.S. 108A-50 and in foster care. Payments received from the Special Children
11 Adoption Fund by participating agencies shall be used exclusively to enhance the adoption
12 services program. No local match shall be required as a condition for receipt of these funds.

13 **SECTION 10.78.(j)** The sum of one million two hundred thousand dollars
14 (\$1,200,000) in this section appropriated to the Department of Health and Human Services in
15 the TANF Block Grant for the 2009-2010 fiscal year shall be used to implement N.C. FAST
16 (North Carolina Families Accessing Services through Technology). The N.C. FAST Program
17 involves the entire automation initiative through which families access services and local
18 departments of social services deliver benefits, supervised by the Department of Health and
19 Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance,
20 and Child Development. The statewide automated initiative shall be implemented in
21 compliance with federal regulations in order to ensure federal financial participation in the
22 project. The Department of Health and Human Services shall report on its compliance with this
23 subsection to the House of Representatives Appropriations Subcommittee on Health and
24 Human Services, the Senate Appropriations Committee on Health and Human Services, and the
25 Fiscal Research Division no later than January 1, 2010.

26 **SECTION 10.78.(k)** The sum of three hundred thousand dollars (\$300,000)
27 appropriated in this section to the Department of Health and Human Services, Division of
28 Social Services, in TANF Contingency funds for the 2009-2010 fiscal year shall be used to
29 expand after-school programs for at-risk children attending middle school. The Department
30 shall develop and implement a grant program to award funds to community-based programs
31 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and
32 gang participation. These funds shall not be used for training or administration at the State
33 level. All funds shall be distributed to community-based programs, focusing on those
34 communities where similar programs do not exist in middle schools.

35 **SECTION 10.78.(l)** In implementing the TANF Block Grants, the Department of
36 Health and Human Services shall review policies, programs, and initiatives to ensure that they
37 support men in their role as fathers and strengthen fathers' involvement in their children's lives.
38 The Department shall encourage county departments of social services to ensure their Work
39 First programs emphasize responsible fatherhood and increased participation by noncustodial
40 fathers.

41 **SECTION 10.78.(m)** The sum of sixty-seven thousand five hundred twenty-three
42 dollars (\$67,523) appropriated in this section to the Department of Health and Human Services
43 in the TANF Block Grant and the sum of three hundred one thousand twenty-five dollars
44 (\$301,025) appropriated in this section to the Department in TANF Contingency funds for the
45 2009-2010 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the
46 number of people served and the services received as a result of the receipt of funds. The report
47 shall contain expenditure data, including the amount of funds used for administration and direct
48 training. The report shall also include the number of people who have been employed as a
49 direct result of services provided by Connect, Inc., including the length of employment in the
50 new position. The Department of Health and Human Services shall evaluate the program and
51 ensure that services provided are not duplicative of local employment security commissions in

1 the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House
2 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate
3 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no
4 later than May 1, 2010.

5 **SECTION 10.78.(n)** The sum of eight hundred thousand dollars (\$800,000)
6 appropriated in this section to the Department of Health and Human Services in the TANF
7 Block Grant and the sum of one million two hundred thousand dollars (\$1,200,000)
8 appropriated in this section to the Department in TANF Contingency funds for Boys and Girls
9 Clubs for the 2009-2010 fiscal year shall be used to make grants for approved programs. The
10 Department of Health and Human Services, in accordance with federal regulations for the use
11 of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and
12 Girls Clubs across the State in order to implement programs that improve the motivation,
13 performance, and self-esteem of youths and to implement other initiatives that would be
14 expected to reduce gang participation, school dropout, and teen pregnancy rates. The
15 Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and
16 Support Our Students, Communities in Schools, and similar programs to submit joint
17 applications for the funds if appropriate.

18 **SECTION 10.78.(o)** The Department of Health and Human Services, Division of
19 Social Services, shall continue implementing county demonstration grants that began in the
20 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years
21 with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the
22 county demonstration grants is to identify best practices that can be used by counties to
23 improve the work participation rates. The Division of Social Services is authorized to establish
24 two time-limited positions to manage the grant award process and monitor the demonstration
25 projects through fiscal year 2009-2010.

26 Funding provided under the county demonstration grants shall not be used to
27 supplant local funds, and counties shall be required to maintain the current level of effort and
28 funding for the Work First program.

29 The Department of Health and Human Services, Division of Social Services, shall
30 report on the status of county demonstration grants implemented pursuant to this subsection to
31 the House of Representatives Appropriations Subcommittee on Health and Human Services,
32 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research
33 Division no later than February 1, 2010.

34 **SECTION 10.78.(p)** The sum of one million eight hundred seventy-five thousand
35 five hundred twelve dollars (\$1,875,512) appropriated in this section to the Department of
36 Health and Human Services in the TANF Block Grant and in TANF Contingency funds for the
37 2009-2010 fiscal year shall be used to continue support for the Child Welfare Collaborative.

38 39 **SOCIAL SERVICES BLOCK GRANT**

40 **SECTION 10.78.(q)** Social Services Block Grant funds appropriated to the North
41 Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina
42 Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

43 **SECTION 10.78.(r)** The sum of two million five hundred fifty thousand dollars
44 (\$2,550,000) appropriated in this section in the Social Services Block Grant to the Department
45 of Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year to
46 support various child welfare training projects as follows:

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

50 **SECTION 10.78.(s)** The sum of nine hundred forty-three thousand two dollars
51 (\$943,002) appropriated in this section to the Department of Health and Human Services in the

1 Social Services Block Grant for the 2009-2010 fiscal year shall be used to support payments to
2 maternity home providers.

3 **SECTION 10.78.(t)** The sum of three hundred sixty thousand dollars (\$360,000)
4 appropriated in this section to the Department of Health and Human Services, Division of
5 Public Health, in the Social Services Block Grant for the 2009-2010 fiscal year shall be used to
6 continue support for the Medically Fragile Children program.

7 **SECTION 10.78.(u)** The sum of two million three hundred seventy-two thousand
8 six hundred nineteen dollars (\$2,372,619) appropriated in this section in the Social Services
9 Block Grant for child caring agencies for the 2009-2010 fiscal year shall be allocated to the
10 State Private Child Caring Agencies Fund.

11 **SECTION 10.78.(v)** The Department of Health and Human Services is authorized,
12 subject to the approval of the Office of State Budget and Management, to transfer Social
13 Services Block Grant funding allocated for departmental administration between divisions that
14 have received administrative allocations from the Social Services Block Grant.

15 **SECTION 10.78.(w)** Social Services Block Grant funds appropriated for the
16 Special Children's Adoption Incentive Fund will require fifty percent (50%) local match.
17

18 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

19 **SECTION 10.78.(x)** Additional emergency contingency funds received may be
20 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
21 consultation with the Joint Legislative Commission on Governmental Operations. Additional
22 funds received shall be reported to the Joint Legislative Commission on Governmental
23 Operations and the Fiscal Research Division upon notification of the award. The Department of
24 Health and Human Services shall not allocate funds for any activities, including increasing
25 administration, other than assistance payments, without prior consultation with the Joint
26 Legislative Commission on Governmental Operations.

27 In addition to funds available for weatherization appropriated within the
28 Low-Income Home Energy Assistance Block Grant, funds available through the American
29 Recovery and Reinvestment Act shall be used to continue to enhance weatherization activities
30 coordinated by local agencies.
31

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

33 **SECTION 10.78.(y)** Payment for subsidized child care services provided with
34 federal TANF funds shall comply with all regulations and policies issued by the Division of
35 Child Development for the subsidized child care program.

36 **SECTION 10.78.(z)** If funds appropriated through the Child Care and
37 Development Fund Block Grant for any program cannot be obligated or spent in that program
38 within the obligation or liquidation periods allowed by the federal grants, the Department may
39 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
40 grant, in order to use the federal funds fully.

41 **SECTION 10.78.(aa)** Funds from the Child Care and Development Fund Block
42 Grant and Child Care and Development Fund Block Grant received through the American
43 Recovery and Reinvestment Act shall be used to increase access to child care subsidy. To help
44 address the economic downturn and increasing unemployment in North Carolina, the
45 Department of Health and Human Services, Division of Child Development shall adopt
46 temporary policies that facilitate and expedite the prudent expenditure of these funds as
47 follows:

- 48 (1) Permit the local purchasing agencies to issue time-limited vouchers to assist
49 counties in managing one-time, nonrecurring subsidy funding.
- 50 (2) Extend the current 30/60 day job search policy to six months when a
51 recipient experiences a loss of employment.

- 1 (3) Provide an upfront job search period of six months for former recipients who
2 have lost employment since October 1, 2008.
- 3 (4) Provide a job search period of six months for recipients that complete school
4 and are entering the job market.
- 5 (5) Notwithstanding any other provision of law, extend the 24-month education
6 time limit for an additional 12 months for a child care recipient who has lost
7 a job since October 1, 2008, or otherwise needs additional training to
8 enhance his or her marketable skills for job placement due to the economic
9 downturn and who has depleted his or her 24-month allowable education
10 time.
- 11 (6) Lower the number of hours a parent must be working in order to be eligible
12 for subsidy to assist parents who are continuing to work but at reduced
13 hours.

14 **SECTION 10.78.(bb)** If American Recovery and Reinvestment Act funds
15 appropriated through the Child Care and Development Fund Block Grant for any program
16 cannot be obligated or spent in that program within the obligation or liquidation periods
17 allowed by the federal grants, the Department may move funds to child care subsidies, unless
18 otherwise prohibited by federal requirements of the grant, in order to use the federal funds
19 fully.

20 **MENTAL HEALTH BLOCK GRANT**

21 **SECTION 10.78.(cc)** The sum of one million five hundred thousand dollars
22 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department
23 of Health and Human Services, Division of Mental Health, Developmental Disabilities, and
24 Substance Abuse Services, for the 2009-2010 fiscal year and the sum of four hundred
25 twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services
26 Block Grant to the Department of Health and Human Services, Division of Social Services, for
27 the 2009-2010 fiscal year shall be used to continue a Comprehensive Treatment Services
28 Program for Children.

29 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

30 **SECTION 10.78.(dd)** If federal funds are received under the Maternal and Child
31 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
32 (42 U.S.C. § 710), for the 2009-2010 fiscal year, then those funds shall be transferred to the
33 State Board of Education to be administered by the Department of Public Instruction. The
34 Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage
35 Education Program and shall delegate to one or more persons the responsibility of
36 implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction
37 shall carefully and strictly follow federal guidelines in implementing and administering the
38 abstinence education grant funds.

39 **SECTION 10.78.(ee)** The Department of Health and Human Services shall ensure
40 that there will be follow-up testing in the Newborn Screening Program.

41 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

42 **SECTION 10.78.(ff)** The sum of two hundred fifty thousand dollars (\$250,000)
43 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to
44 the Department of Health and Human Services, Division of Mental Health, Developmental
45 Disabilities, and Substance Abuse Services, for the 2009-2010 fiscal year shall be used to
46 implement one or more priority recommendations of the North Carolina Institute of Medicine
47 (NCIOM) Substance Abuse Task Force, which include:
48
49
50

- 1 (1) Development of a comprehensive substance abuse prevention plan for use at
2 the State and local levels.
- 3 (2) Providing funding for the establishment of six pilot projects to implement
4 county or multicounty comprehensive prevention plans.
- 5 (3) Supporting efforts to reduce high-risk drinking on college campuses.
- 6 (4) Development of a pilot program to provide chronic disease management
7 services to substance abuse clients and former clients. The purpose of the
8 pilot is to decrease the number of short-term hospital admissions and to
9 provide discharge planning and follow-up to reduce substance abuse client
10 recidivism.
- 11 (5) Educating and encouraging health care professionals to use the screening,
12 brief intervention, and referral to treatment (SBIRT) model promoted by the
13 federal government.
- 14

15 COMMUNITY SERVICES BLOCK GRANT

16 **SECTION 10.78.(gg)** In accordance with the intent of the American Recovery and
17 Reinvestment Act, the North Carolina General Assembly strongly encourages recipients of
18 Community Services Block Grant and Community Services Block Grant Recovery funds to
19 enhance cooperation with county departments of social services and regional food banks to
20 increase benefits enrollment for eligible persons, including Food and Nutrition Services and
21 Medical Assistance.

22 PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

23 COMMERCIAL FERTILIZER FEES

24 **SECTION 11.1.** G.S. 106-671(a) reads as rewritten:

25 "(a) For the purpose of defraying expenses on the inspection and of otherwise
26 determining the value of commercial fertilizers in this State, there shall be paid to the
27 Department of Agriculture and Consumer Services a charge of ~~twenty-five cents (25¢)~~
28 fifty cents (50¢) per ton on all commercial fertilizers other than packages of five pounds or less.
29 Inspection fees shall be paid on all tonnage distributed into North Carolina to any person not
30 having a valid reporting permit. On individual packages of five pounds or less there shall be
31 paid in lieu of the tonnage fee an annual registration fee of twenty-five dollars (\$25.00) for
32 each brand offered for sale, sold, or distributed; provided that any per annum (fiscal) tonnage of
33 any brand sold in excess of one hundred tons may be subject to the charge of ~~twenty-five cents~~
34 (25¢) fifty cents (50¢) per ton on any amount in excess of one hundred tons as provided herein.
35 Whenever any manufacturer of commercial fertilizer shall have paid the charges required by
36 this section his goods shall not be liable to further tax, whether by city, town, or county;
37 provided, this shall not exempt the commercial fertilizers from an ad valorem tax."
38
39
40

41 INCREASE PESTICIDE REGISTRATION FEE

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

43 "(b) The applicant shall pay an annual registration fee of ~~one hundred dollars (\$100.00)~~
44 one hundred fifty dollars (\$150.00) plus an additional annual assessment for each brand or
45 grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the
46 applicant's gross sales of the pesticide in this State for the preceding 12 months for the period
47 ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five
48 dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional
49 two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the
50 registrant for each brand or grade of pesticide which is marketed in North Carolina prior to
51 registration as required by this Article. In the case of multi-year registration, the annual fee and

1 additional assessment for each year shall be paid at the time of the initial registration. The
2 Board shall give a pro rata refund of the registration fee and additional assessment to the
3 registrant in the event that registration is canceled by the Board or by the United States
4 Environmental Protection Agency."

6 BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES

7 SECTION 11.3. G.S. 106-6.1 reads as rewritten:

8 "§ 106-6.1. Fees.

9 (a) A board or commission within the Department of Agriculture and Consumer
10 Services may establish fees or charges for the services it provides. The Board of Agriculture,
11 subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule
12 for the use of facilities operated by the Department of Agriculture and Consumer Services.

13 (b) No later than February 1 of each odd numbered year, the Board of Agriculture shall
14 review the fees it established under this section to determine whether any of these fees should
15 be changed and report to the Fiscal Research Division the amount of each fee reviewed, when
16 the fee was last changed, the number of times the fee was collected during the prior fiscal year,
17 the total receipts from the fee during the prior fiscal year, and any recommendations for
18 increasing or decreasing the amount of any such fees. This report shall also include for each fee
19 an evaluation of any inflationary change since the last change to the amount of the fee and any
20 other information deemed relevant to this evaluation."

22 PART XII. DEPARTMENT OF LABOR

24 DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM

25 SECTION 12.1. Chapter 94 of the General Statutes is amended by adding a new
26 section to read as follows:

27 "§ 94-12. Fees.

28 In order to meet the costs of administering the Apprenticeship Program, the Department is
29 authorized to charge and collect such reasonable fees as it may by rule establish."

31 PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

33 REVISE CLEAN WATER MANAGEMENT TRUST FUND OPERATIONS LIMIT

34 SECTION 13.1. Notwithstanding G.S. 113A-253(d), no more than three percent
35 (3%) of the funds appropriated to the Clean Water Management Trust Fund in each fiscal year
36 of the 2009-2011 fiscal biennium may be used for administrative and operating expenses of the
37 Board of Trustees of the Clean Water Management Trust Fund and its staff.

39 FOOD AND LODGING INSPECTION FEES INCREASES

40 SECTION 13.2.(a) G.S. 130A-248(d) reads as rewritten:

41 "(d) The Department shall charge each establishment subject to this section, except
42 nutrition programs for the elderly administered by the Division of Aging of the Department of
43 Health and Human Services, establishments that prepare and sell meat food products or poultry
44 products, and public school cafeterias, an annual fee of ~~fifty dollars (\$50.00)~~ sixty dollars
45 (\$60.00). The Commission shall adopt rules to implement this subsection. Fees collected under
46 this subsection shall be used for State and local food, lodging, and institution sanitation
47 programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees
48 collected under this subsection may be used to support State health programs and activities."

49 SECTION 13.2.(b) G.S. 130A-248(e) reads as rewritten:

50 "(e) In addition to the fees under subsection (d) of this section, the Department may
51 charge a fee of ~~two hundred dollars (\$200.00)~~ two hundred thirty-five dollars (\$235.00) for plan

1 review of plans for prototype franchised or chain facilities for food establishments subject to
2 this section. All of the fees collected under this subsection may be used to support the State
3 food, lodging, and institution sanitation programs and activities under this Part."

4 **SECTION 13.2.(c)** G.S. 130A-248(f) reads as rewritten:

5 "(f) Any local health department may charge a fee not to exceed ~~two hundred dollars~~
6 ~~(\$200.00)~~ two hundred thirty-five dollars (\$235.00) for plan review by that local health
7 department of plans for food establishments subject to this section that are not subject to
8 subsection (e) of this section. All of the fees collected under this subsection may be used for
9 local food, lodging, and institution sanitation programs and activities. No food establishment
10 that pays a fee under subsection (e) of this section is liable for a fee under this subsection."
11

12 **RADIATION PROTECTION SECTION SUPPORTED BY FEES**

13 **SECTION 13.3.** G.S. 104E-19 reads as rewritten:

14 **"§ 104E-19. Fees.**

15 (a) In order to meet the anticipated costs of administering ~~the educational and training~~
16 ~~programs in G.S. 104E-11(e), of enforcing and carrying out the inspection provisions in~~
17 ~~G.S. 104E-7(a)(7) and G.S. 104E-11(a), and of administering the licensing program in~~
18 ~~G.S. 104E-10.3,~~ this Chapter, the Department is authorized to charge and collect such
19 reasonable fees as it may by rule establish.

20 (b) Repealed by Session Laws 1987, c. 850, s. 13."
21

22 **SCRAP TIRE DISPOSAL ACCOUNT FUNDS**

23 **SECTION 13.4.** Notwithstanding the provisions of G.S. 105-187.19(b), effective
24 for taxes levied during the 2009-2010 fiscal year, the Secretary of Revenue shall credit to the
25 General Fund three million dollars (\$3,000,000) of the net tax proceeds that G.S. 105-187.19(b)
26 directs the Secretary to credit to the Scrap Tire Disposal Account.
27

28 **MARINE FISHERIES FUNDS FOR THE FISHERY RESOURCES GRANT** 29 **PROGRAM**

30 **SECTION 13.5.** Of the funds appropriated in this act to the Department of
31 Environment and Natural Resources for the Division of Marine Fisheries for the Fishery
32 Resource Grant Program established under G.S. 113-200, the sum of one hundred forty-six
33 thousand three hundred twelve dollars (\$146,312) for the 2009-2010 fiscal year and the sum of
34 one hundred forty-six thousand three hundred twelve dollars (\$146,312) for the 2010-2011
35 fiscal year shall be used for river herring research in the Department. The remaining funds
36 appropriated in this act to the Department for the Fishery Resource Grant Program for the
37 2009-2011 biennium shall be used for research related to the Sea Grant College Program only
38 and shall not be used for any other purpose.
39

40 **NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY** 41 **EQUIPMENT**

42 **SECTION 13.6.** Prior to the Division of Forest Resources of the Department of
43 Environment and Natural Resources entering into either a new lease purchase contract for the
44 purchase of forestry equipment or a new installment contract for the purchase of forestry
45 equipment, the Division of Forest Resources shall submit a detailed list of the forestry
46 equipment to be purchased under the contract to the Joint Legislative Commission on
47 Governmental Operations and the Fiscal Research Division. Prior to the Department of
48 Administration entering into either a new lease purchase contract for the purchase of forestry
49 equipment or a new installment contract for the purchase of forestry equipment on behalf of the
50 Division of Forest Resources, the Department of Administration shall submit a detailed list of
51 the forestry equipment to be purchased under the contract to the Joint Legislative Commission

1 on Governmental Operations and the Fiscal Research Division. If a list is modified after it is
 2 submitted under this section, the modified list shall be submitted to the Joint Legislative
 3 Commission on Governmental Operations and the Fiscal Research Division prior to entering
 4 into the contract.

6 GRASSROOTS SCIENCE PROGRAM

7 **SECTION 13.7.(a)** Of the funds appropriated in this act to the Department of
 8 Environment and Natural Resources for the Grassroots Science Program, the sum of three
 9 million four hundred eleven thousand seven hundred thirteen dollars (\$3,411,713) for the
 10 2009-2010 fiscal year and the sum of three million four hundred eleven thousand seven
 11 hundred thirteen dollars (\$3,411,713) for the 2010-2011 fiscal year is allocated as grants-in-aid
 12 for each fiscal year as follows:

	2009-2010	2010-2011
15 Aurora Fossil Museum	\$57,875	\$57,875
16 Cape Fear Museum	\$157,787	\$157,787
17 Carolina Raptor Center	\$109,931	\$109,931
18 Catawba Science Center	\$143,429	\$143,429
19 Colburn Earth Science Museum, Inc.	\$73,054	\$73,054
20 Core Sound Waterfowl Museum	\$49,000	\$49,000
21 Discovery Place	\$649,608	\$649,608
22 Eastern NC Regional Science Center	\$49,000	\$49,000
23 Fascinate-U	\$79,451	\$79,451
24 Granville County Museum Commission, 25 Inc.–Harris Gallery	\$55,294	\$55,294
26 Greensboro Children's Museum	\$132,374	\$132,374
27 The Health Adventure Museum of Pack 28 Place Education, Arts and 29 Science Center, Inc.	\$152,499	\$152,499
30 Highlands Nature Center	\$77,683	\$77,683
31 Imagination Station	\$84,313	\$84,313
32 The Iredell Museums, Inc.	\$60,080	\$60,080
33 Kidsenses	\$79,656	\$79,656
34 Museum of Coastal Carolina	\$76,460	\$76,460
35 The Natural Science Center 36 of Greensboro, Inc.	\$182,627	\$182,627
37 North Carolina Museum of Life 38 and Science	\$372,229	\$372,229
39 Pisgah Astronomical Research Institute	\$49,000	\$49,000
40 Port Discover: Northeastern 41 North Carolina's Center for 42 Hands-On Science, Inc.	\$49,000	\$49,000
43 Rocky Mount Children's Museum	\$70,809	\$70,809
44 Schiele Museum of Natural History 45 and Planetarium, Inc.	\$224,956	\$224,956
46 Sci Works Science Center and 47 Environmental Park of Forsyth County	\$143,569	\$143,569
48 Sylvan Heights Waterfowl Park 49 and Eco-Center	\$49,000	\$49,000
50 Western North Carolina Nature Center	\$110,621	\$110,621
51 Wilmington Children's Museum	\$72,408	\$72,408

1
2 Total \$3,411,713 \$3,411,713

3 **SECTION 13.7.(b)** No later than March 1, 2010, the Department of Environment
4 and Natural Resources shall report to the Fiscal Research Division all of the following
5 information for each museum that receives funds under this section:

- 6 (1) The actual operating budget for the 2008-2009 fiscal year.
- 7 (2) The proposed operating budget for the 2009-2010 fiscal year.
- 8 (3) The total attendance at the museum during the 2009 calendar year.

9 **SECTION 13.7.(c)** No later than March 1, 2011, the Department of Environment
10 and Natural Resources shall report to the Fiscal Research Division all of the following
11 information for each museum that receives funds under this section:

- 12 (1) The actual operating budget for the 2009-2010 fiscal year.
- 13 (2) The proposed operating budget for the 2010-2011 fiscal year.
- 14 (3) The total attendance at the museum during the 2010 calendar year.

15 **SECTION 13.7.(d)** As a condition for qualifying to receive funding under this
16 section, all of the following documentation shall, no later than November 1 of each year of the
17 2009-2011 biennium, be submitted for each museum under this section to the Department of
18 Environment and Natural Resources for fiscal years ending between July 1, 2007, and June 30,
19 2008, and only those costs that are properly documented under this subsection are allowed by
20 the Department in calculating the distribution of funds under this section:

- 21 (1) Each museum under this section shall submit its IRS (Internal Revenue
22 Service) Form 990 to show its annual operating expenses, its annual report,
23 and a reconciliation that explains any differences between expenses as
24 shown on the IRS Form 990 and the annual report.
- 25 (2) Each friends association of a museum under this section shall submit its IRS
26 Form 990 to show its reported expenses for the museum, its annual report,
27 and a reconciliation that explains any differences between expenses as
28 shown on the IRS Form 990 and the annual report, unless the association
29 does not have both an IRS Form 990 and an annual report available, in
30 which case, it shall submit either an IRS Form 990 or an annual report.
- 31 (3) The chief financial officer of each county or municipal government that
32 provides funds for the benefit of the museum shall submit a detailed signed
33 statement of documented costs spent for the benefit of the museum that
34 includes documentation of the name, address, title, and telephone number of
35 the person making the assertion that the museum receives funds from the
36 county or municipality for the benefit of the museum.
- 37 (4) The chief financial officer of each county or municipal government or each
38 friends association that provides indirect or allocable costs that are not
39 directly charged to a museum under this section but that benefit the museum
40 shall submit in the form of a detailed statement enumerating each cost by
41 type and amount that is verified by the financial officer responsible for the
42 completion of the documentation and that includes the name, address, title,
43 and telephone number of the person making the assertion that the county,
44 municipality, or association provides indirect or allocable costs to the
45 museum.

46 **SECTION 13.7.(e)** As used in subsection (d) of this section, "friends association"
47 means a nonprofit corporation established for the purpose of supporting and assisting a
48 museum that receives funding under this section.

49
50 **TIMBER ASSESSMENT DESPITE APPROPRIATION**

51 **SECTION 13.8.** G.S. 113A-192(c) is repealed.

FOREST DEVELOPMENT FUND/FOREST PRODUCTS ASSESSMENT RATES

SECTION 13.9.(a) G.S. 113A-192(c) through G.S. 113A-192(e) are repealed.

SECTION 13.9.(b) G.S. 113A-193(b) is amended by adding a new subdivision to read:

"(6) Determine the appropriate assessment to be levied on primary forest products in accordance with G.S. 113A-194."

SECTION 13.9.(c) G.S. 113A-194(b) reads as rewritten:

"(b) The assessment levied on primary forest products shall ~~be at~~not exceed the following rates:

- (1) ~~Fifty cents (50¢)~~One dollar (\$1.00) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board ~~feet;~~feet.
- (2) ~~Forty cents (40¢)~~Eighty cents (80¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board ~~feet;~~feet.
- (3) ~~Twenty cents (20¢)~~Forty cents (40¢) per cord for softwood pulpwood and other softwood products normally measured in ~~eords;~~CORDS.
- (4) ~~Twelve cents (12¢)~~Twenty-four cents (24¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in ~~eords;~~CORDS.
- (5) All material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State."

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 13.10. G.S. 113-291.10(f) reads as rewritten:

"(f) Each county that volunteers to participate in this program for a given fiscal year shall provide written notification of its wish to participate no later than September 30 of that year and shall commit the sum of four thousand dollars (\$4,000) in local funds no later than September 30 of that year. At least three hundred forty-nine thousand dollars (\$349,000) each fiscal year of the biennium shall be paid from funds available to the Wildlife Resources Commission to provide the State share necessary to support this program, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share."

PART XIV. DEPARTMENT OF COMMERCE**ONE NORTH CAROLINA FUND**

SECTION 14.1. Of the funds appropriated in this act to the One North Carolina Fund for the 2009-2010 fiscal year, 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.

ONE NORTH CAROLINA FUNDS/USE OF CASH BALANCE

SECTION 14.2.(a) Of the funds appropriated to the One North Carolina Fund in prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become unencumbered or unexpended thereafter, the Department of Commerce shall use the sum of

1 one million dollars (\$1,000,000) in the 2009-2010 fiscal year to market the State as a business
2 destination.

3 **SECTION 14.2.(b)** Of the funds appropriated to the One North Carolina Fund in
4 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become
5 unencumbered or unexpended thereafter, the sum of two million dollars (\$2,000,000) shall be
6 transferred to the One North Carolina Small Business Fund for the 2009-2010 fiscal year.

7 **SECTION 14.2.(c)** Of the funds appropriated to the One North Carolina Fund in
8 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become
9 unencumbered or unexpended thereafter, the Department of Commerce shall allocate the sum
10 of one million dollars (\$1,000,000) for the 2009-2010 fiscal year to the North Carolina
11 Minority Support Center, Inc., to expand economic development lending. The funds allocated
12 under this subsection shall be used to assist small businesses having difficulty accessing credit
13 due to a lack of liquidity in financial markets. It is the General Assembly's intent that these
14 funds be used to further community economic development lending and support in low-wealth
15 communities and to make capital accessible to small businesses in a way that will have an
16 economic stimulus impact.

17 18 **SMALL BUSINESS ASSISTANCE FUND**

19 **SECTION 14.3.(a)** Part 2I of Article 10 of Chapter 143B of the General Statutes
20 reads as rewritten:

21 "Part 2I. ~~One~~ North Carolina Small Business ~~Program Assistance.~~

22 "Subpart A. One North Carolina Small Business Program."

23 **SECTION 14.3.(b)** Part 2I of Article 10 of Chapter 143B of the General Statutes is
24 amended by adding a new Subpart to read:

25 "Subpart B. Small Business Assistance Fund.

26 "§ 143B-437.89. Establishment of fund; use of moneys; application for moneys from the
27 fund; disbursal; repayment; inspections; rules; reports.

28 (a) Fund Established. – A revolving, special revenue fund to be known as the Small
29 Business Jobs Preservation and Emergency Assistance Fund is established in the Department of
30 Commerce. This Fund shall be administered by the Department. The Department shall be
31 responsible for receipt and disbursement of all moneys as provided in this section. Interest
32 earnings shall be credited to the Fund. The Fund consists of revenue resulting from funds
33 appropriated by the State, repayments of principal of and interest on loans, fees, and other
34 amounts received by the Department with respect to financial assistance provided by the
35 Department, and any other public or private funds made available to the Fund.

36 (b) Department Authority; Loan Terms. – The Department may approve for
37 disbursements of moneys in the Fund to small businesses in accordance with the provisions of
38 this section. The Department shall develop criteria, technical specifications, policies, and
39 procedures to be used in determining whether the conditions of this section are satisfied and
40 whether the activities described in the application are otherwise consistent with the purposes of
41 this section. As used in this section, "moneys" means a disbursement from the Fund in the form
42 of a loan, and "small business" means a business whose annual receipts and number of full-time
43 employees, combined with the annual receipts and full-time employees of all related persons,
44 did not exceed one million dollars (\$1,000,000) or 100 full-time employees. A small business
45 may apply for a loan for:

46 (1) Up to eighty percent (80%) of the projected cost of the proposed activities,
47 subject to repayment within five years at the prime rate plus four percent
48 (4%).

49 (2) Up to eighty percent (80%) of the projected cost of the proposed activities,
50 subject to repayment within 10 years at the prime rate plus six percent (6%).

1 (3) Up to eighty percent (80%) of the projected cost of the proposed activities,
2 subject to repayment within 15 years at the prime rate plus eight percent
3 (8%).

4 (c) Eligible Purposes. – Moneys in the Fund shall be used for any of the following
5 eligible purposes:

6 (1) To guarantee commercial loans.

7 (2) To finance bonds to allow small business to better leverage federal stimulus
8 dollars.

9 (3) To provide emergency bridge loans where clear and apparent ability to repay
10 has been established but credit remains unavailable.

11 (4) To lend for other purposes related to small business job preservation as
12 approved or recommended by the Department.

13 (d) Application. – Any small business may apply for moneys from the Fund by
14 submitting an application to the Department. The application shall list each of the following:

15 (1) The proposed activities for which the moneys are to be used.

16 (2) The amount of moneys requested for these activities.

17 (3) Projections of the dollar amount of private investment that is expected to
18 occur as a direct result of the proposed activities.

19 (4) An explanation of the nature of the private investment that will result from
20 the proposed activities.

21 (5) A requirement for any reports, disclosures, or information required by this
22 section or necessary for the Department to fulfill its duties under this section.

23 (6) The total compensation received for the previous year from the small
24 business and all related persons for each of the five highest-compensated
25 employees of the small business.

26 (7) Any additional or supplemental information required by the Department
27 upon written request.

28 (e) Determination. – The Department shall review an application submitted by a small
29 business, determine whether the activities listed in the application are activities that are eligible
30 for moneys from the Fund, and determine which applicants are selected to receive moneys from
31 the Fund. A small business whose application is denied may file a new or amended application.

32 (f) Limitation. – A small business that is selected may not receive moneys from the
33 Fund pursuant to this section with an aggregate total of more than thirty-five thousand dollars
34 (\$35,000).

35 (g) Disbursements of Moneys. – The Department shall not disburse moneys for any
36 loans until the small business has confirmed a method of repayment for the loan. The terms for
37 repayment established for a given loan shall apply through the period of that loan. A small
38 business that has been selected to receive moneys shall use the full amount of the moneys for
39 the activities that were approved pursuant to subsection (b) of this section. Moneys are deemed
40 used if the small business is legally committed to spend the moneys on the approved activities.
41 For purposes of this section, approved activities do not include an increase in the total
42 compensation of any employee identified in the application under subdivision (d)(6) of this
43 section. A small business shall lose any moneys that have not been used within three years of
44 being selected. These unused moneys shall be credited to the Fund. A small business that loses
45 moneys pursuant to this subsection may file a new application. Any moneys repaid or credited
46 to the Fund pursuant to this subsection shall be available to other applicants as long as the Fund
47 exists.

48 (h) Cost Report. – After activities financed in whole or in part pursuant to this section
49 have been completed, the small business shall report the actual cost of the project to the
50 Department. If the actual costs of the activities exceed the projected cost upon which the
51 moneys were based, the small business may submit an application to the Department for

1 additional moneys for the difference. If the actual costs of the activities are less than the
2 projected cost, the small business shall arrange to pay the difference to the Fund according to
3 terms set by the Department.

4 (i) Inspection. – Inspection of a project for which moneys have been awarded may be
5 performed by personnel of the Department. No person may be approved to perform inspections
6 who is an officer or employee of the small business to which the moneys were disbursed or
7 who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the
8 activities for which the moneys were disbursed.

9 (j) Administration. – The Department may adopt, modify, and repeal rules establishing
10 the procedures to be followed in the administration of this section and interpreting and applying
11 the provisions of this section, as provided in the Administrative Procedure Act.

12 (k) Legislative Reports. – The Department shall prepare and file on or before
13 September 1 of each year with the Joint Legislative Commission on Governmental Operations
14 and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning
15 the allocation of moneys authorized by this section, including a separate listing of the moneys
16 disbursed to historically underutilized businesses. The report shall set forth for the preceding
17 fiscal year itemized and total allocations from the Fund. The Department shall also prepare a
18 summary report of all allocations made from the Fund for each fiscal year; the total funds
19 received and allocations made; the total amount of moneys repaid to the Fund; and the total
20 unallocated funds in the Fund.

21 Small businesses that have been selected to receive moneys from the Fund shall prepare and
22 file a report that shall include the following information:

- 23 (1) The total amount of private funds that was committed and the amount that
24 was invested in activities for which moneys from the Fund were made
25 available during the preceding fiscal year.
- 26 (2) The total amount and character of moneys received from the Fund during the
27 preceding fiscal year.
- 28 (3) The total amount of moneys repaid to the Fund during the preceding fiscal
29 year.
- 30 (4) A description of how moneys from the Fund and funds from private
31 investors were used during the preceding fiscal year.
- 32 (5) Details regarding the types of private investment created or stimulated, the
33 dates of this activity, the amount of public money involved, and any other
34 pertinent information, including any jobs created, businesses started, and
35 number of jobs retained due to the approved activities."

36 **SECTION 14.3.(c)** This act becomes effective July 1, 2009.

37 38 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

39 **SECTION 14.4.(a)** Funds appropriated to the Department of Commerce for the
40 2009-2010 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and
41 unencumbered as of June 30, 2009, shall not revert to the General Fund on June 30, 2009, but
42 shall remain available to the Department to be expended by the Wanchese Seafood Industrial
43 Park for operations, maintenance, repair, and capital improvements in accordance with Article
44 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available
45 to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair,
46 and capital improvements under Article 23C of Chapter 113 of the General Statutes.

47 **SECTION 14.4.(b)** Funds appropriated to the Department of Commerce for the
48 2009-2010 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of
49 June 30, 2009, shall not revert to the General Fund on June 30, 2009, but shall remain available
50 to the Department to be expended by the Wanchese Seafood Industrial Park for securing
51 adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and

1 capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.
 2 These funds shall be in addition to funds available to the North Carolina Seafood Industrial
 3 Park Authority for operations, maintenance, repair, and capital improvements under Article
 4 23C of Chapter 113 of the General Statutes.

5 **SECTION 14.4.(c)** This section becomes effective June 30, 2009.

6
 7 **NER BLOCK GRANTS**

8 **SECTION 14.5.(a)** Appropriations from federal block grant funds are made for
 9 the fiscal year ending June 30, 2010, according to the following schedule:

10
 11 **COMMUNITY DEVELOPMENT BLOCK GRANT**

12			
13	01. State Administration	\$	1,000,000
14			
15	02. Urgent Needs and Contingency		1,000,000
16			
17	03. Scattered Site Housing		13,200,000
18			
19	04. Economic Development		8,710,000
20			
21	05. Small Business/Entrepreneurship		1,000,000
22			
23	06. Community Revitalization		13,000,000
24			
25	07. State Technical Assistance		450,000
26			
27	08. Housing Development		1,500,000
28			
29	09. Infrastructure		5,140,000
30			
31	TOTAL COMMUNITY DEVELOPMENT		
32	BLOCK GRANT – 2009 Program Year	\$	45,000,000
33			

34 **SECTION 14.5.(b)** Decreases in Federal Fund Availability. – If federal funds are
 35 reduced below the amounts specified above after the effective date of this act, then every
 36 program in each of these federal block grants shall be reduced by the same percentage as the
 37 reduction in federal funds.

38 **SECTION 14.5.(c)** Increases in Federal Fund Availability for Community
 39 Development Block Grant. – Any block grant funds appropriated by the Congress of the United
 40 States in addition to the funds specified in this section shall be expended as follows: each
 41 program category under the Community Development Block Grant shall be increased by the
 42 same percentage as the increase in federal funds.

43 **SECTION 14.5.(d)** Limitations on Community Development Block Grant Funds. –
 44 Of the funds appropriated in this section for the Community Development Block Grant, the
 45 following shall be allocated in each category for each program year: up to one million dollars
 46 (\$1,000,000) may be used for State Administration; not less than one million dollars
 47 (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two
 48 hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; eight million
 49 seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; up
 50 to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less
 51 than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization; up to

1 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up
2 to one million five hundred thousand dollars (\$1,500,000) may be used for Housing
3 Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used
4 for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the
5 United States after the effective date of this act, then these reductions or increases shall be
6 allocated in accordance with subsection (b) or (c) of this section, as applicable.

7 **SECTION 14.5.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to
8 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in
9 partnership with units of local government is an eligible activity under any program category in
10 accordance with federal regulations. Capacity building grants may be made from funds
11 available within program categories, program income, or unobligated funds.

12 **SECTION 14.5.(f)** The Department of Commerce shall consult with the Joint
13 Legislative Commission on Governmental Operations prior to reallocating Community
14 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
15 the Director of the Budget finds that:

16 (1) A reallocation is required because of an emergency that poses an imminent
17 threat to public health or public safety, the Director of the Budget may
18 authorize the reallocation without consulting the Commission. The
19 Department of Commerce shall report to the Commission on the reallocation
20 no later than 30 days after it was authorized and shall identify in the report
21 the emergency, the type of action taken, and how it was related to the
22 emergency.

23 (2) The State will lose federal block grant funds or receive less federal block
24 grant funds in the next fiscal year unless a reallocation is made. The
25 Department of Commerce shall provide a written report to the Commission
26 on the proposed reallocation and shall identify the reason that failure to take
27 action will result in the loss of federal funds. If the Commission does not
28 hear the issue within 30 days of receipt of the report, the Department may
29 take the action without consulting the Commission.

30 **SECTION 14.5.(g)** By September 1, 2009, the Division of Community Assistance,
31 Department of Commerce, shall report to the Joint Legislative Commission on Governmental
32 Operations and the Fiscal Research Division on the use of Community Development Block
33 Grant Funds appropriated in the prior fiscal year.

34 35 MAIN STREET GRANT FUNDS

36 **SECTION 14.6.(a)** Part 15 of Article 10 of Chapter 143B of the General Statutes
37 reads as rewritten:

38 "Part 15. Main Street ~~Financial Incentive Fund~~Solutions.

39 "**§ 143B-472.35. Establishment of fund; use of ~~moneys; funds~~; application for ~~grants and~~
40 ~~loans; grants~~; disbursement; repayment; inspections; rules; reports.**

41 (a) A ~~revolving~~ fund to be known as the Main Street ~~Financial Incentive~~Solutions Fund
42 is established in the Department of Commerce. This Fund shall be administered by the
43 Department of Commerce. The Department of Commerce shall be responsible for receipt and
44 disbursement of all ~~moneys funds~~ as provided in this section. Interest earnings shall be credited
45 to the Main Street ~~Financial Incentive~~Solutions Fund.

46 (b) ~~Moneys Funds~~ in the Main Street ~~Financial Incentive~~Solutions Fund shall be
47 available to ~~the North Carolina cities affiliated with the North Carolina Main Street Center~~
48 ~~Program~~micropolitan cities in development tier two and three counties in the State. For
49 purposes of this section, a "micropolitan city" is a city located within the State with a
50 population, according to the most recent U.S. census, of between 10,000 and 50,000 people.

1 MoneysFunds in the Main Street Financial IncentiveSolutions Fund shall be used for any of the
2 following eligible activities:

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

20 (c) Any North Carolinamicropolitan city affiliated with the North Carolina Main Street
21 Center Program located within a development tier two or three county may apply for moneys
22 assistance from the Main Street Financial IncentiveSolutions Fund by submitting an application
23 to the Main Street Center in the Division of Community Assistance, Department of Commerce.
24 Any city affiliated with the North Carolina Main Street Center Program may apply for a grant
25 equal to ten percent (10%) of the projected cost of thefor a proposed project. A city may apply
26 for additional moneys as one or more loans from the Fund. Specifically, a city may apply for a
27 loan for:

- 28 (1) Up to fifteen percent (15%) of the projected cost of the proposed project in
29 excess of the amount to be received as a grant, subject to repayment within
30 fifteen years at five percent (5%) interest;
- 31 (2) Up to twenty percent (20%) of the projected cost of the proposed project in
32 excess of the amount to be received as a grant, subject to repayment within
33 ten years at eight percent (8%) interest; and
- 34 (3) Up to thirty five percent (35%) of the projected cost of the proposed project
35 in excess of the amount to be received as a grant, subject to repayment
36 within seven years at ten percent (10%) interest.

37 (c1) The application shall list;include each of the following:

- 38 (1) A copy of the consensus local economic development plan developed by the
39 micropolitan city in conjunction with the Department's Main Street Program
40 and the city's regional economic development commission or its local
41 council of government or both.
- 42 (1a) The proposed activities for which the moneys-funds are to be used and the
43 projected cost of the project;project.
- 44 (2) The amount of grant moneys and any loansfunds requested for these
45 activities;activities.
- 46 (3) Projections of the dollar amount of private investment that is expected to
47 occur in the designated downtown area as a direct result of the city's
48 proposed activities;activities.
- 49 (4) Whether local public dollars are required to match any grant plus any loan
50 moneysfunds according to the provisions of subdivision (g)(2) of this
51 section, and if so, the amount of local public dollars required;funds required.

- 1 (5) An explanation of the nature of the private investment in the designated
2 downtown area that will result from the city's proposed ~~activities;activities.~~
3 (6) Projections of the time needed to complete the city's proposed
4 ~~activities;activities.~~
5 (7) Projections of the time needed to realize the private investment that is
6 expected to result from the city's proposed ~~activities; andactivities.~~
7 (8) Identification of the proposed source of funds to be used for repayment of
8 any loan obligations.

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

10 ~~The applicant shall furnish additional or supplemental information upon written request.~~

11 (d) A committee, comprised of representatives of: the Division of Community
12 Assistance of the Department of Commerce, the North Carolina Main Street Program, the
13 Local Government Commission, and the League of Municipalities ~~shall;shall do each of the~~
14 following:

- 15 (1) Review a city's ~~application,application.~~
16 (2) Determine whether the activities listed in the application are activities that
17 are eligible for a ~~loan, andgrant.~~
18 (3) Determine which applicants are selected to receive ~~moneys-funds~~ from the
19 Main Street ~~Financial IncentiveSolutions~~ Fund.

20 A city whose application is denied may file a new or amended application.

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

24 (f) ~~The Department of Commerce may not disburse moneys for any loans until the city~~
25 ~~has confirmed a method of repayment of the loan. The terms for repayment established for a~~
26 ~~given loan shall apply throughout the period of that loan.~~

27 ~~The Department of Commerce shall establish an account in the amount of the grant plus~~
28 ~~any loans for each city that is selected. These moneys shall be disbursed as expended through~~
29 ~~warrants drawn on the Department of Commerce.~~

- 30 (g) (1) A city that has been selected to receive a grant ~~plus any loans~~ shall use the
31 full amount of the grant ~~plus any loans~~ for the activities that were approved
32 pursuant to subsection (d) of this section. ~~Moneys-Funds~~ are deemed used if
33 the city is legally committed to spend the ~~moneys-funds~~ on the approved
34 activities.
35 (2) If a city has received approval to use the grant ~~plus any loans~~ for public
36 improvements or public infrastructure, that city shall be required to raise,
37 before ~~moneys-funds~~ for these public improvements may be drawn from the
38 city's account, local public funds to match the amount of the grant ~~plus any~~
39 ~~loans~~ from the Main Street ~~Financial IncentiveSolutions~~ Fund on the basis of
40 at least one local public dollar (\$1.00) for every one dollar (\$1.00) from the
41 Main Street ~~Financial IncentiveSolutions~~ Fund. This match requirement
42 applies only to those ~~moneys-funds~~ received for public improvements or
43 public infrastructure and is in addition to the requirement set forth in
44 subdivision (1) of this subsection.
45 (3) A city that fails to satisfy the condition set forth in subdivision (1) of this
46 subsection shall lose any ~~moneysfunds~~ that have not been used within three
47 years of being selected. These unused ~~moneysfunds~~ shall be credited to the
48 Main Street ~~Financial IncentiveSolutions~~ Fund. A city that fails to satisfy the
49 conditions set forth in subdivisions (1) and (2) of this subsection may file a
50 new application.

1 (4) Any ~~moneys~~funds repaid or credited to the Main Street ~~Financial~~
2 ~~Incentive~~Solutions Fund pursuant to subdivision (3) of this subsection shall
3 be available to other applicants as long as the Main Street ~~Financial~~
4 ~~Incentive~~Solutions Fund is in effect.

5 (h) ~~Each city is authorized to agree to apply any available revenues of that city to the~~
6 ~~repayment of a loan obligation to the extent the generation of these revenues is within the~~
7 ~~power of that city to enter into covenants to take action in order to generate these revenues;~~
8 ~~provided:~~

9 (1) ~~The agreement to use this source of funds to make repayment or the~~
10 ~~covenant to generate these revenues does not constitute a pledge of the city's~~
11 ~~taxing power; and~~

12 (2) ~~The repayment agreement specifically identifies the source of funds to be~~
13 ~~pledged.~~

14 (i) After a project financed in whole or in part pursuant to this section has been
15 completed, the city shall report the actual cost of the project to the Department of Commerce. If
16 the actual cost of the project exceeds the projected cost upon which the grant ~~plus any loans~~
17 ~~were was~~ based, the city may submit an application to the Department of Commerce for a grant
18 ~~or loans~~ for the difference. If the actual cost of the project is less than the projected cost, the
19 city shall arrange to pay the difference to the Main Street ~~Financial Incentive~~Solutions Fund
20 according to terms set by the Department.

21 (j) Inspection of a project for which a grant ~~plus any loans have has~~ been awarded may
22 be performed by personnel of the Department of Commerce. No person may be approved to
23 perform inspections who is an officer or employee of the unit of local government to which the
24 grant ~~plus any loans were was~~ made or who is an owner, officer, employee, or agent of a
25 contractor or subcontractor engaged in the construction of any project for which the grant ~~plus~~
26 ~~any loans were was~~ made.

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

30 (l) The Department of Commerce and cities that have been selected to receive a grant
31 ~~plus any loans~~ from the Main Street ~~Financial Incentive~~Solutions Fund shall prepare and file on
32 or before ~~July 31~~September 1 of each year with the Joint Legislative Commission on
33 Governmental Operations ~~and the Fiscal Research Division~~ a consolidated report for the
34 preceding fiscal year concerning the allocation of grants ~~plus any loans~~ authorized by this
35 section.

36 The portion of the annual report prepared by the Department of Commerce shall set forth
37 for the preceding fiscal year itemized and total allocations from the Main Street ~~Financial~~
38 ~~Incentive~~Solutions Fund for ~~grants and loans~~grants. The Department of Commerce shall also
39 prepare a summary report of all allocations made from the fund for each fiscal year; the total
40 funds received and allocations ~~made; the total amount of loan moneys repaid to the Fund; made~~
41 and the total unallocated funds in the Fund.

42 The portion of the report prepared by the city shall ~~include;~~include each of the following:

43 (1) The total amount of private funds that was committed and the amount that
44 was invested in the designated downtown area during the preceding fiscal
45 ~~year;~~year.

46 (2) The total amount of local public matching funds that was raised, if required
47 by subdivision (g)(2) of this ~~section;~~section.

48 (3) The total amount of ~~grant plus any loans~~grants received from the Main
49 Street ~~Financial Incentive~~Solutions Fund during the preceding fiscal
50 ~~year;~~year.

- 1 (4) ~~The total amount of loan moneys repaid to the Main Street Financial~~
2 ~~Incentive Fund during the preceding fiscal year;~~
3 (5) A description of how the grant ~~and loan moneys~~ funds and funds from private
4 investors were used during the preceding fiscal ~~year;~~ year.
5 (6) Details regarding the types of private investment created or stimulated, the
6 dates of this activity, the amount of public money involved, and any other
7 pertinent information, including any jobs created, businesses started, and
8 number of jobs retained due to the approved activities."

9 **SECTION 14.6.(b)** This act becomes effective July 1, 2009.

10 11 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

12 **SECTION 14.7.** The North Carolina Industrial Commission may retain the
13 additional revenue generated as a result of an increase in the fee charged to parties for the filing
14 of compromised settlements. These funds shall be used for the purpose of replacing existing
15 computer hardware and software used for the operations of the Commission. These funds may
16 also be used to prepare any assessment of hardware and software needs prior to purchase and to
17 develop and administer the needed databases and new Electronic Case Management System,
18 including the establishment of two time-limited positions for application development and
19 support and mainframe migration. The Commission may not retain any fees under this section
20 unless they are in excess of the former two-hundred-dollar (\$200.00) fee charged by the
21 Commission for filing a compromised settlement.

22 23 **INDUSTRIAL COMMISSION/SAFETY EDUCATION SECTION**

24 **SECTION 14.8.** The Safety Education Section of the Industrial Commission shall
25 become fee supported effective July 1, 2010. The Industrial Commission shall establish a fee
26 schedule for services provided by the Safety Education Section to support the operations of the
27 Safety Education Section. At least fifty percent (50%) of the revenue used to support the Safety
28 Education Section must come from fees charged for services provided by the Safety Education
29 Section.

30 31 **EMPLOYMENT SECURITY COMMISSION FUNDS**

32 **SECTION 14.9.(a)** Funds from the Employment Security Commission Reserve
33 Fund shall be available to the Employment Security Commission of North Carolina to use as
34 collateral to secure federal funds and to pay the administrative costs associated with the
35 collection of the Employment Security Commission Reserve Fund surcharge. The total
36 administrative costs paid with funds from the Reserve in the 2009-2010 fiscal year shall not
37 exceed two million five hundred thousand dollars (\$2,500,000).

38 **SECTION 14.9.(b)** There is appropriated from the Employment Security
39 Commission Reserve Fund to the Employment Security Commission of North Carolina the sum
40 of twenty million dollars (\$20,000,000) for the 2009-2010 fiscal year to be used for the
41 following purposes:

- 42 (1) Nineteen million seven hundred thousand dollars (\$19,700,000) for the
43 operation and support of local Employment Security Commission offices.
44 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
45 Information Coordinating Committee to develop and operate an interagency
46 system to track former participants in State education and training programs.
47 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
48 Chapter 96 of the General Statutes, which directs the Commission to employ
49 the Common Follow-Up Management Information System to evaluate the
50 effectiveness of the State's job training, education, and placement programs.

1 **SECTION 14.9.(c)** There is appropriated from the Employment Security
2 Commission Reserve Fund to the Employment Security Commission of North Carolina an
3 amount not to exceed one million dollars (\$1,000,000) for the 2009-2010 fiscal year to fund
4 State initiatives not currently funded through federal grants.

5
6 **EMPLOYMENT SECURITY COMMISSION/USE OF FEDERAL UNEMPLOYMENT**
7 **TRUST FUNDS**

8 **SECTION 14.10.** Of the funds credited to and held in the State of North Carolina's
9 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States
10 pursuant to and in accordance with section 903 of the Social Security Act, the Employment
11 Security Commission of North Carolina may expend the sum of fourteen million dollars
12 (\$14,000,000) for the 2009-2011 biennium for the following purposes:

- 13 (1) Implementing and administering the provisions of State law that qualify the
14 State for the incentive payments.
- 15 (2) Improved outreach to individuals who might be eligible by virtue of these
16 provisions.
- 17 (3) The improvement of unemployment benefits and tax operations, including
18 responding to increased demand for unemployment benefits.
- 19 (4) Staff-assisted reemployment services for unemployment claimants.

20
21 **COUNCIL OF GOVERNMENT FUNDS**

22 **SECTION 14.11.(a)** Of the funds appropriated in this act to the Department of
23 Commerce, eight hundred seven thousand three hundred fifty-one dollars (\$807,351) for the
24 2009-2010 fiscal year and eight hundred seven thousand three hundred fifty-one dollars
25 (\$807,351) for the 2010-2011 fiscal year shall only be used as provided by this section. Each
26 regional council of government or lead regional organization is allocated up to forty-seven
27 thousand four hundred ninety-two dollars (\$47,492) for the 2009-2010 and the 2010-2011
28 fiscal years.

29 **SECTION 14.11.(b)** A regional council of government may use funds allocated to
30 it by this section only to assist local governments in grant applications, economic development,
31 community development, support of local industrial development activities, and other activities
32 as deemed appropriate by the member governments.

33 **SECTION 14.11.(c)** Funds allocated by this section shall be paid by electronic
34 transfer in two equal installments. Upon receipt of the report required by subsection (e) of this
35 section, the first installment shall be paid no later than September 15, 2009.

36 **SECTION 14.11.(d)** Funds allocated by this section shall not be used for payment
37 of dues or assessments by the member governments and shall not supplant funds appropriated
38 by the member governments.

39 **SECTION 14.11.(e)** By September 1 of each year, and more frequently as
40 requested, each council of government or lead regional organization shall report to the Joint
41 Legislative Commission on Governmental Operations and the Fiscal Research Division of the
42 General Assembly on prior State fiscal year program activities, objectives, and
43 accomplishments, and prior State fiscal year itemized expenditures and fund sources. Each
44 council of government or lead regional organization shall provide to the Fiscal Research
45 Division of the General Assembly a copy of the organization's annual audited financial
46 statement within 30 days of issuance of the statement.

47
48 **NONPROFIT REPORTING REQUIREMENTS**

49 **SECTION 14.12.(a)** The North Carolina Institute of Minority Economic
50 Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center,
51 North Carolina Community Development Initiative, Inc., North Carolina Association of

1 Community Development Corporations, Inc., North Carolina Biotechnology Center, and
2 Partnership for the Sounds, Inc., shall do the following:

- 3 (1) By September 1 of each year, and more frequently as requested, report to the
4 Joint Legislative Commission on Governmental Operations and the Fiscal
5 Research Division on prior State fiscal year program activities, objectives,
6 and accomplishments, and prior State fiscal year itemized expenditures and
7 fund sources.
- 8 (2) Provide to the Fiscal Research Division a copy of the organization's annual
9 audited financial statement within 30 days of issuance of the statement.

10 **SECTION 14.12.(b)** Remaining allotments after September 1 shall not be released
11 to any nonprofit organization that does not satisfy the reporting requirements provided in
12 subsection (a) of this section.

13 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

14 **SECTION 14.13.(a)** Funds appropriated in this act to the Department of
15 Commerce for regional economic development commissions shall be allocated to the following
16 commissions in accordance with subsection (b) of this section: Western North Carolina
17 Regional Economic Development Commission, Research Triangle Regional Partnership,
18 Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad
19 Partnership, Northeastern North Carolina Regional Economic Development Commission,
20 North Carolina's Eastern Region Economic Development Partnership, and Carolinas
21 Partnership, Inc.

22 **SECTION 14.13.(b)** Funds appropriated pursuant to subsection (a) of this section
23 shall be allocated to each regional economic development commission as follows:

- 24 (1) First, the Department shall establish each commission's allocation by
25 determining the sum of allocations to each county that is a member of that
26 commission. Each county's allocation shall be determined by dividing the
27 county's development factor by the sum of the development factors for
28 eligible counties and multiplying the resulting percentage by the amount of
29 the appropriation. As used in this subdivision, the term "development factor"
30 means a county's development factor as calculated under G.S. 143B-437.08;
31 and
32
- 33 (2) Next, the Department shall subtract from funds allocated to the North
34 Carolina's Eastern Region Economic Development Partnership the sum of
35 three hundred eight thousand six hundred sixty-six dollars (\$308,666) in the
36 2009-2010 fiscal year, which sum represents: (i) the total interest earnings in
37 the prior fiscal year on the estimated balance of seven million five hundred
38 thousand dollars (\$7,500,000) appropriated to the Global TransPark
39 Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws;
40 and (ii) the total interest earnings in the prior fiscal year on loans made from
41 the seven million five hundred thousand dollars (\$7,500,000) appropriated to
42 the Global TransPark Development Zone in Section 6 of Chapter 561 of the
43 1993 Session Laws; and
- 44 (3) Next, the Department shall redistribute the sum of three hundred eight
45 thousand six hundred sixty-six dollars (\$308,666) in the 2009-2010 fiscal
46 year to the seven regional economic development commissions named in
47 subsection (a) of this section. Each commission's share of this redistribution
48 shall be determined according to the development factor formula set out in
49 subdivision (1) of this subsection. This redistribution shall be in addition to
50 each commission's allocation determined under subdivision (1) of this
51 subsection.

1 **SECTION 14.13.(c)** No more than one hundred twenty thousand dollars
 2 (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional
 3 economic development commission.

4 **SECTION 14.13.(d)** The General Assembly finds that successful economic
 5 development requires the collaboration of the State, regions of the State, counties, and
 6 municipalities. Therefore, the regional economic development commissions are encouraged to
 7 seek supplemental funding from their county and municipal partners to continue and enhance
 8 their efforts to attract and retain business in the State.

9
 10 **SET REGULATORY FEE FOR UTILITIES COMMISSION**

11 **SECTION 14.14.(a)** The percentage rate to be used in calculating the public utility
 12 regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for
 13 each public utility's North Carolina jurisdictional revenues earned during each quarter that
 14 begins on or after July 1, 2009.

15 **SECTION 14.14.(b)** The electric membership corporation regulatory fee imposed
 16 under G.S. 62-302(b1) for the 2009-2010 fiscal year is two hundred thousand dollars
 17 (\$200,000).

18 **SECTION 14.14.(c)** This section becomes effective July 1, 2009.

19
 20 **RURAL ECONOMIC DEVELOPMENT CENTER**

21 **SECTION 14.15.(a)** Of the funds appropriated in this act to the North Carolina
 22 Rural Economic Development Center, Inc. (Rural Center), the sum of four million three
 23 hundred sixty-four thousand seven hundred eighty-five dollars (\$4,364,785) for the 2009-2010
 24 fiscal year and the sum of four million three hundred sixty-four thousand seven hundred
 25 eighty-five dollars (\$4,364,785) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011
26 Technical Assistance and Center		
27 Administration of Research		
28 and Demonstration Grants	\$431,156	\$431,156
29 Center Administration, Oversight,		
30 and Other Programs	\$586,290	\$586,290
31 Water/Wastewater Administration		
32 and Technical Assistance	\$449,203	\$449,203
33 Research and Demonstration Grants	\$366,300	\$366,300
34 Institute for Rural Entrepreneurship	\$142,560	\$142,560
35 Community Development Grants	\$987,436	\$987,436
36 Community Development Grants		
37 Administration	\$ 48,510	\$ 48,510
38 Microenterprise Loan Program	\$193,050	\$193,050
39 Water/Sewer/Business Development		
40 Matching Grants	\$874,170	\$874,170
41 Statewide Water/Sewer Database	\$ 99,000	\$ 99,000
42 Agricultural Advancement Consortium	\$114,345	\$114,345
43 Agricultural Advancement Consortium		
44 Operating	\$ 72,765	\$ 72,765

45 **SECTION 14.15.(b)** Funds allocated in subsection (a) of this section for
 46 community development grants shall support development projects and activities within the
 47 State's minority communities. Any new or previously funded community development
 48 corporation, as that term is defined in subsection (c) of this section, is eligible to apply for
 49 community development grant funds. However, no community development grant funds shall
 50 be released to a community development corporation unless the corporation can demonstrate
 51

1 that there are no outstanding or proposed assessments or other collection actions against the
2 corporation for any State or federal taxes, including related penalties, interest, and fees.

3 **SECTION 14.15.(c)** For purposes of this section, the term "community
4 development corporation" means a nonprofit corporation:

- 5 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 6 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of
7 1986;
- 8 (3) Whose primary mission is to develop and improve low-income communities
9 and neighborhoods through economic and related development;
- 10 (4) Whose activities and decisions are initiated, managed, and controlled by the
11 constituents of those local communities; and
- 12 (5) Whose primary function is to act as deal maker and packager of projects and
13 activities that will increase their constituencies' opportunities to become
14 owners, managers, and producers of small businesses, affordable housing,
15 and jobs designed to produce positive cash flow and curb blight in the
16 targeted community.

17 **SECTION 14.15.(d)** The Rural Center shall provide a report containing detailed
18 budget, personnel, and salary information to the Office of State Budget and Management in the
19 same manner as State departments and agencies in preparation for biennium budget requests.

20 **SECTION 14.15.(e)** By September 1 of each year, and more frequently as
21 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental
22 Operations and the Fiscal Research Division on prior State fiscal year program activities,
23 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund
24 sources.

25 **RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

26 **SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina
27 Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million two
28 hundred ninety-seven thousand two hundred and seventy-eight dollars (\$19,297,278) for the
29 2009-2010 fiscal year and the sum of nineteen million two hundred ninety-seven thousand two
30 hundred and seventy-eight dollars (\$19,297,278) for the 2010-2011 fiscal year shall be
31 allocated as follows:
32

- 33 (1) To continue the North Carolina Infrastructure Program. The purpose of the
34 Program is to provide grants to local governments to construct critical water
35 and wastewater facilities and to provide other infrastructure needs, including
36 technology needs, to sites where these facilities will generate private
37 job-creating investment. At least fourteen million eight hundred and fifty
38 thousand dollars (\$14,850,000) of the funds appropriated in this act for each
39 year of the biennium must be used to provide grants under this Program.
- 40 (2) To provide matching grants to local governments in distressed areas and
41 equity investments in public-private ventures that will productively reuse
42 vacant buildings and properties, with priority given to towns or communities
43 with populations of less than 5,000.
- 44 (3) To provide economic development research and demonstration grants.

45 **SECTION 14.16.(b)** The Rural Center may contract with other State agencies,
46 constituent institutions of The University of North Carolina, and colleges within the North
47 Carolina Community College System for certain aspects of the North Carolina Infrastructure
48 Program, including design of Program guidelines and evaluation of Program results.

49 **SECTION 14.16.(c)** During each year of the 2009-2011 biennium, the Rural
50 Center may use up to three hundred seventy-eight thousand three hundred seventy-eight dollars

1 (\$378,378) of the funds appropriated in this act to cover its expenses in administering the North
2 Carolina Economic Infrastructure Program.

3 **SECTION 14.16.(d)** By September 1 of each year, and more frequently as
4 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental
5 Operations and the Fiscal Research Division concerning the progress of the North Carolina
6 Economic Infrastructure Program in the prior State fiscal year.

7 8 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

9 **SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina
10 Rural Economic Development Center, Inc. (Rural Center), the sum of three hundred fifty-seven
11 thousand three hundred ninety dollars (\$357,390) for the 2009-2010 fiscal year and the sum of
12 three hundred fifty-seven thousand three hundred ninety dollars (\$357,390) for the 2010-2011
13 fiscal year shall be equally distributed among the certified Opportunities Industrialization
14 Centers (OI Centers).

15 **SECTION 14.17.(b)** By September 1 of each year, and more frequently as
16 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental
17 Operations and the Fiscal Research Division on prior fiscal year program activities, objectives,
18 and accomplishments for each of the OI Centers receiving funds pursuant to subsection (a) of
19 this section. This report shall include data for each OI Center on itemized expenditures and
20 fund sources for the prior State fiscal year.

21 **SECTION 14.17.(c)** The Rural Center shall ensure that each OI Center files
22 annually with the State Auditor a financial statement in the form and on the schedule prescribed
23 by the State Auditor. The financial statements must be audited in accordance with standards
24 prescribed by the State Auditor to assure that State funds are used for the purposes provided by
25 law.

26 **SECTION 14.17.(d)** No funds appropriated under this act shall be released to an
27 OI Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as
28 that term is defined in G.S. 105-243.1, at the federal or State level.

29 30 **RURAL ECONOMIC DEVELOPMENT CENTER/CLEAN WATER PARTNERS** 31 **FUNDING**

32 **SECTION 14.18.** By September 1 of each year, and more frequently as requested,
33 the North Carolina Rural Economic Development Center, Inc., shall report to the Joint
34 Legislative Commission on Governmental Operations and the Fiscal Research Division
35 concerning the progress of the water/sewer improvement grants (commonly referred to as
36 funding for Clean Water Partners) as appropriated in Section 13.13A of S.L. 2007-323 and
37 Section 13.8 of S.L. 2008-107. Each report shall include a list of grants made since the last
38 report, the total amount contracted, and the amount of funds remaining. This reporting
39 requirement shall replace all previous reporting requirements and shall remain in effect until all
40 funds from this program are expended.

41 42 **RURAL ECONOMIC DEVELOPMENT CENTER/AMERICAN RECOVERY AND** 43 **REINVESTMENT ACT FUNDS**

44 **SECTION 14.19.** If the North Carolina Rural Economic Development Center, Inc.,
45 (Rural Center) finds that North Carolina will not maximize the amount of funding for water and
46 wastewater projects the State could receive under the American Recovery and Reinvestment
47 Act of 2009, the Rural Center shall use funds appropriated to the Rural Center in this act to
48 maximize such funding.

49 50 **PART XV. JUDICIAL DEPARTMENT** 51

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 15.1. Funds appropriated to the Judicial Department in the 2009-2011 fiscal biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

GRANT FUNDS

SECTION 15.2. Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

DEATH PENALTY LITIGATION FUNDS

SECTION 15.3. Of the funds appropriated in this act to the Office of Indigent Defense Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of five hundred thirty-one thousand dollars (\$531,000) for the 2009-2010 fiscal year and up to the sum of five hundred thirty-one thousand dollars (\$531,000) for the 2010-2011 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, of each year in the biennium, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by this section.

REPORT ON BUSINESS COURTS

SECTION 15.4. The Administrative Office of the Courts shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, average age of pending cases, and annual expenditures for the prior fiscal year.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 15.5. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2009, for the purchase or repair of office or information technology equipment during the 2009-2010 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

DISPUTE RESOLUTION FEES

SECTION 15.6. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are nonreverting and are only to be used at the direction of the Commission.

REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

1 **SECTION 15.7.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial
2 Department, during the 2009-2011 fiscal biennium, may elect to establish a per-mile
3 reimbursement rate for transportation by privately owned vehicles at a rate less than the
4 business standard mileage rate set by the Internal Revenue Service.

5
6 **REPEAL ASSISTANT DISTRICT ATTORNEY AUTHORIZATIONS**

7 **SECTION 15.8.** G.S. 7A-60(a1) reads as rewritten:

8 "(a1) The counties of the State are organized into prosecutorial districts, and each district
9 has the counties and the number of full-time assistant district attorneys set forth in the
10 following table:

11			No. of Full-Time
12	Prosecutorial		Asst. District
13	District	Counties	Attorneys
14	1	Camden, Chowan, Currituck,	11
15		Dare, Gates, Pasquotank,	
16		Perquimans	
17	2	Beaufort, Hyde, Martin,	8
18		Tyrrell, Washington	
19	3A	Pitt	11
20	3B	Carteret, Craven, Pamlico	12
21	4	Duplin, Jones, Onslow,	18
22		Sampson	
23	5	New Hanover, Pender	18
24	6A	Halifax	5
25	6B	Bertie, Hertford,	6
26		Northampton	
27	7	Edgecombe, Nash, Wilson	19
28	8	Greene, Lenoir, Wayne	14
29	9	Franklin, Granville,	12
30		Vance, Warren	
31	9A	Person, Caswell	6
32	10	Wake	42 41
33	11	Harnett, Johnston, Lee	19
34	12	Cumberland	23
35	13	Bladen, Brunswick, Columbus	13
36	14	Durham	18
37	15A	Alamance	11
38	15B	Orange, Chatham	10
39	16A	Scotland, Hoke	7
40	16B	Robeson	13
41	17A	Rockingham	7
42	17B	Stokes, Surry	8
43	18	Guilford	32
44	19A	Cabarrus	9
45	19B	Montgomery, Randolph	10
46	19C	Rowan	8
47	19D	Moore	5
48	20A	Anson, Richmond,	12
49		Stanly	
50	20B	Union	10
51	21	Forsyth	25

1	22A	Alexander, Iredell	11
2	22B	Davidson, Davie	11
3	23	Alleghany, Ashe, Wilkes,	8
4		Yadkin	
5	24	Avery, Madison, Mitchell,	7
6		Watauga, Yancey	
7	25	Burke, Caldwell, Catawba	19
8	26	Mecklenburg	<u>58 57</u>
9	27A	Gaston	15
10	27B	Cleveland,	11
11		Lincoln	
12	28	Buncombe	14
13	29A	McDowell, Rutherford	7
14	29B	Henderson, Polk, Transylvania	8
15	30	Cherokee, Clay, Graham,	11
16		Haywood, Jackson, Macon,	
17		Swain."	

19 GUIDELINES FOR MAXIMIZING EFFICIENCY OF PROCEEDINGS

20 **SECTION 15.9.** By December 1, 2009, the Administrative Office of the Courts
 21 shall develop guidelines to be applied to maximize efficient use of the time of probation
 22 officers and court personnel participating in probation revocation proceedings. The
 23 Administrative Office of the Courts may also adopt guidelines for maximizing the efficient use
 24 of the time of law enforcement personnel participating in the Criminal District Courts.

26 ELIMINATE SPECIAL ALLOWANCE FOR SUPERIOR COURT JUDGES

27 **SECTION 15.10.** G.S. 7A-44(a) reads as rewritten:

28 "(a) A judge of the superior court, regular or special, shall receive the annual salary set
 29 forth in the Current Operations Appropriations Act, and in addition shall be paid the same
 30 travel allowance as State employees generally by G.S. 138-6(a)(1) and (2), provided that no
 31 travel allowance be paid for travel within his county of residence. ~~In addition, a judge of the~~
 32 ~~superior court shall be allowed seven thousand dollars (\$7,000) per year, payable monthly, in~~
 33 ~~lieu of necessary subsistence expenses while attending court or transacting official business at a~~
 34 ~~place other than in the county of his residence and in lieu of other professional expenses~~
 35 ~~incurred in the discharge of his official duties.~~ The Administrative Officer of the Courts may
 36 also reimburse superior court judges, in addition to the above funds for ~~travel and subsistence,~~
 37 ~~travel,~~ for travel and subsistence expenses incurred for professional education."

39 CLARIFY THAT DWI TREATMENT COURTS ARE A TYPE OF DRUG 40 TREATMENT COURT UNDER THE DRUG TREATMENT COURT ACT

41 **SECTION 15.11.** G.S. 7A-791 reads as rewritten:

42 "**§ 7A-791. Purpose.**

43 The General Assembly recognizes that a critical need exists in this State for judicial
 44 programs that will reduce the incidence of alcohol and other drug abuse or dependence and
 45 crimes, including the offense of driving while impaired, delinquent acts, and child abuse and
 46 neglect committed as a result of alcohol and other drug abuse or dependence, and child abuse
 47 and neglect where alcohol and other drug abuse or dependence are significant factors in the
 48 child abuse and neglect. It is the intent of the General Assembly by this Article to create a
 49 program to facilitate the creation of local drug treatment court ~~programs.~~ programs and driving
 50 while impaired (DWI) treatment court programs."

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 15.12. The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million five hundred one thousand one hundred fifty dollars (\$2,501,150) in appropriated funds during the 2009-2010 fiscal year and up to the sum of two million four hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated funds during the 2010-2011 fiscal year for the expansion of existing or new public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 15.13.(a) The Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

SECTION 15.13.(b) In its March 1, 2010 report, the Office of Indigent Defense Services shall provide a progress report on the pilot program for alternative scheduling authorized by Section 14.1 of S.L. 2008-107. In its March 1, 2011 report, the Office of Indigent Defense Services shall provide a final report on that pilot program.

SECTION 15.13.(c) In its March 1, 2010 report, the Office of Indigent Defense Services shall provide a progress report on the feasibility study directed by Section 14.7 of S.L. 2008-107 on developing a statewide system for obtaining indigent case information when counsel is first appointed. In its March 1, 2011 report, the Office of Indigent Defense Services shall provide a final report on that feasibility study.

INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 15.14. Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the 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.

OFFICE OF INDIGENT DEFENSE SERVICES FLEXIBILITY

SECTION 15.15. Notwithstanding the provisions of G.S. 143C-6-9, in implementing reductions to the 2009-2011 budget for legal training and resources, the Office of Indigent Defense Services may use available funds as needed for registration fees, academic services, travel, and book purchases.

SENTENCING SERVICES FLEXIBILITY

SECTION 15.16. In implementing the reduction to Sentencing Services' budget, the Director of the Office of Indigent Defense Services may close programs in certain districts in the State based on current and historical performance, local support and interest, the amount of funding to be saved, and other relevant factors. The Director may choose not to contract with certain nonprofit programs or to eliminate certain State-funded programs and associated positions.

STUDY STRATEGIES TO REDUCE DEMAND FOR SERVICES OF OFFICE OF INDIGENT DEFENSE SERVICES

SECTION 15.17. The Office of Indigent Defense Services shall consult with the Administrative Office of the Courts, the Conference of District Attorneys, the North Carolina Sentencing and Policy Advisory Commission, and other court system actors in formulating proposals aimed at reducing future costs, including the possibility of decriminalizing minor misdemeanor offenses for which jail sentences are rarely or never imposed and improving the manner in which potentially capital cases are screened and processed. The Office shall include any proposals in its reports during the 2009-2011 fiscal biennium.

NEW FEE FOR COSTS OF SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION AND THE CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION 15.18. G.S. 7A-304 is amended by adding a new subsection to read:

"(3b) For the services, staffing, and operations of the Criminal Justice Education and Standards Commission and the Sheriffs' Education and Training Standards Commission, the sum of two dollars (\$2.00) to be remitted to the Department of Justice. One dollar and sixty-five cents (\$1.65) of this sum shall be used exclusively for the Criminal Justice Education and Standards Commission, and thirty-five cents (35¢) shall be used exclusively for the Sheriffs' Education and Training Standards Commission."

INCREASE CONVICTED CRIMINAL LAB ANALYSIS FEE

SECTION 15.19.(a) G.S. 7A-304(a)(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 (\$300.00)~~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."

SECTION 15.19.(b) G.S. 7A-304(a)(8) reads as rewritten:

"(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of ~~three hundred dollars (\$300.00)~~six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the

laboratory has performed DNA analysis of the crime, test 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 costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. 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."

INCREASE CERTAIN COURT FEES

SECTION 15.20.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
 - (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.
- (2a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars (\$3.00), to be credited to the Court Information Technology Fund.

- 1 (3) For the retirement and insurance benefits of both State and local government
2 law-enforcement officers, the sum of six dollars and twenty-five cents
3 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum
4 shall be administered as is provided in Article 12C of Chapter 143 of the
5 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum
6 shall be administered as is provided in Article 12E of Chapter 143 of the
7 General Statutes, with one dollar and twenty-five cents (\$1.25) being
8 administered in accordance with the provisions of G.S. 143-166.50(e).
- 9 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar
10 twenty-five cents (\$1.25) to be remitted to the Department of Justice and
11 administered under the provisions of Article 12G of Chapter 143 of the
12 General Statutes.
- 13 (4) For support of the General Court of Justice, the sum of ~~ninety-five dollars~~
14 ~~and fifty cents (\$95.50)~~ one hundred three dollars (\$103.00) in the district
15 court, including cases before a magistrate, and the sum of ~~one hundred two~~
16 ~~dollars and fifty cents (\$102.50)~~ one hundred fifteen dollars (\$115.00) in the
17 superior court, to be remitted to the State Treasurer. For a person convicted
18 of a felony in superior court who has made a first appearance in district
19 court, both the district court and superior court fees shall be assessed. The
20 State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of
21 each fee collected under this subdivision to the North Carolina State Bar for
22 the provision of services described in G.S. 7A-474.4, and ninety-five cents
23 (\$.95) of each fee collected under this subdivision to the North Carolina
24 State Bar for the provision of services described in G.S. 7A-474.19.
- 25 (4a) For support of the General Court of Justice, the sum of five dollars (\$5.00)
26 for all offenses arising under Chapter 20 of the General Statutes, to be
27 remitted to the State Treasurer.
- 28 (5) For using pretrial release services, the district or superior court judge shall,
29 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to
30 the county providing the pretrial release services. This cost shall be assessed
31 and collected only if the defendant had been accepted and released to the
32 supervision of the agency providing the pretrial release services.
- 33 (6) For support of the General Court of Justice, the sum of ~~one hundred dollars~~
34 ~~(\$100.00)~~ two hundred dollars (\$200.00) is payable by a defendant who fails
35 to appear to answer the charge as scheduled, unless within 20 days after the
36 scheduled appearance, the person either appears in court to answer the
37 charge or disposes of the charge pursuant to G.S. 7A-146. Upon a showing
38 to the court that the defendant failed to appear because of an error or
39 omission of a judicial official, a prosecutor, or a law-enforcement officer, the
40 court shall waive this fee. This fee shall be remitted to the State Treasurer.
- 41 (7) For the services of the State Bureau of Investigation laboratory facilities, the
42 district or superior court judge shall, upon conviction, order payment of the
43 sum of three hundred dollars (\$300.00) to be remitted to the Department of
44 Justice for support of the State Bureau of Investigation. This cost shall be
45 assessed only in cases in which, as part of the investigation leading to the
46 defendant's conviction, the laboratories have performed DNA analysis of the
47 crime, tests of bodily fluids of the defendant for the presence of alcohol or
48 controlled substances, or analysis of any controlled substance possessed by
49 the defendant or the defendant's agent. The court may waive or reduce the
50 amount of the payment required by this subdivision upon a finding of just
51 cause to grant such a waiver or reduction.

- 1 (8) For the services of any crime laboratory facility operated by a local
2 government or group of local governments, the district or superior court
3 judge shall, upon conviction, order payment of the sum of three hundred
4 dollars (\$300.00) to be remitted to the general fund of the local
5 governmental unit that operates the laboratory to be used for law
6 enforcement purposes. The cost shall be assessed only in cases in which, as
7 part of the investigation leading to the defendant's conviction, the laboratory
8 has performed DNA analysis of the crime, test of bodily fluids of the
9 defendant for the presence of alcohol or controlled substances, or analysis of
10 any controlled substance possessed by the defendant or the defendant's
11 agent. The costs shall be assessed only if the court finds that the work
12 performed at the local government's laboratory is the equivalent of the same
13 kind of work performed by the State Bureau of Investigation under
14 subdivision (7) of this subsection. The court may waive or reduce the
15 amount of the payment required by this subdivision upon a finding of just
16 cause to grant such a waiver or reduction."

17 **SECTION 15.20.(b)** Effective July 1, 2010, G.S. 7A-304(a), as rewritten by
18 subsection (a) of this section, reads as rewritten:

19 "(a) In every criminal case in the superior or district court, wherein the defendant is
20 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
21 prosecuting witness, the following costs shall be assessed and collected, except that when the
22 judgment imposes an active prison sentence, costs shall be assessed and collected only when
23 the judgment specifically so provides, and that no costs may be assessed when a case is
24 dismissed.

- 25 (1) For each arrest or personal service of criminal process, including citations
26 and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county
27 wherein the arrest was made or process was served, except that in those
28 cases in which the arrest was made or process served by a law-enforcement
29 officer employed by a municipality, the fee shall be paid to the municipality
30 employing the officer.
- 31 (2) For the use of the courtroom and related judicial facilities, the sum of twelve
32 dollars (\$12.00) in the district court, including cases before a magistrate, and
33 the sum of thirty dollars (\$30.00) in superior court, to be remitted to the
34 county in which the judgment is rendered. In all cases where the judgment is
35 rendered in facilities provided by a municipality, the facilities fee shall be
36 paid to the municipality. Funds derived from the facilities fees shall be used
37 exclusively by the county or municipality for providing, maintaining, and
38 constructing adequate courtroom and related judicial facilities, including:
39 adequate space and furniture for judges, district attorneys, public defenders
40 and other personnel of the Office of Indigent Defense Services, magistrates,
41 juries, and other court related personnel; office space, furniture and vaults
42 for the clerk; jail and juvenile detention facilities; free parking for jurors; and
43 a law library (including books) if one has heretofore been established or if
44 the governing body hereafter decides to establish one. In the event the funds
45 derived from the facilities fees exceed what is needed for these purposes, the
46 county or municipality may, with the approval of the Administrative Officer
47 of the Courts as to the amount, use any or all of the excess to retire
48 outstanding indebtedness incurred in the construction of the facilities, or to
49 reimburse the county or municipality for funds expended in constructing or
50 renovating the facilities (without incurring any indebtedness) within a period
51 of two years before or after the date a district court is established in such

- 1 county, or to supplement the operations of the General Court of Justice in the
2 county.
- 3 (2a) For the upgrade, maintenance, and operation of the judicial and county
4 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars
5 (\$4.00), to be credited to the Court Information Technology Fund.
- 6 (3) For the retirement and insurance benefits of both State and local government
7 law-enforcement officers, the sum of six dollars and twenty-five cents
8 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum
9 shall be administered as is provided in Article 12C of Chapter 143 of the
10 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum
11 shall be administered as is provided in Article 12E of Chapter 143 of the
12 General Statutes, with one dollar and twenty-five cents (\$1.25) being
13 administered in accordance with the provisions of G.S. 143-166.50(e).
- 14 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar
15 twenty-five cents (\$1.25) to be remitted to the Department of Justice and
16 administered under the provisions of Article 12G of Chapter 143 of the
17 General Statutes.
- 18 (4) For support of the General Court of Justice, the sum of ~~one hundred three~~
19 ~~dollars (\$103.00)~~ one hundred five dollars (\$105.00) in the district court,
20 including cases before a magistrate, and the sum of ~~one hundred fifteen~~
21 ~~dollars (\$115.00)~~ one hundred thirty-five dollars (\$135.00) in the superior
22 court, to be remitted to the State Treasurer. For a person convicted of a
23 felony in superior court who has made a first appearance in district court,
24 both the district court and superior court fees shall be assessed. The State
25 Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each
26 fee collected under this subdivision to the North Carolina State Bar for the
27 provision of services described in G.S. 7A-474.4, and ninety-five cents
28 (\$.95) of each fee collected under this subdivision to the North Carolina
29 State Bar for the provision of services described in G.S. 7A-474.19.
- 30 (4a) For support of the General Court of Justice, the sum of ~~five dollars (\$5.00)~~
31 ten dollars (\$10.00) for all offenses arising under Chapter 20 of the General
32 Statutes, to be remitted to the State Treasurer.
- 33 (5) For using pretrial release services, the district or superior court judge shall,
34 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to
35 the county providing the pretrial release services. This cost shall be assessed
36 and collected only if the defendant had been accepted and released to the
37 supervision of the agency providing the pretrial release services.
- 38 (6) For support of the General Court of Justice, the sum of two hundred dollars
39 (\$200.00) is payable by a defendant who fails to appear to answer the charge
40 as scheduled, unless within 20 days after the scheduled appearance, the
41 person either appears in court to answer the charge or disposes of the charge
42 pursuant to G.S. 7A-146. Upon a showing to the court that the defendant
43 failed to appear because of an error or omission of a judicial official, a
44 prosecutor, or a law-enforcement officer, the court shall waive this fee. This
45 fee shall be remitted to the State Treasurer.
- 46 (7) For the services of the State Bureau of Investigation laboratory facilities, the
47 district or superior court judge shall, upon conviction, order payment of the
48 sum of three hundred dollars (\$300.00) to be remitted to the Department of
49 Justice for support of the State Bureau of Investigation. This cost shall be
50 assessed only in cases in which, as part of the investigation leading to the
51 defendant's conviction, the laboratories have performed DNA analysis of the

1 crime, tests of bodily fluids of the defendant for the presence of alcohol or
2 controlled substances, or analysis of any controlled substance possessed by
3 the defendant or the defendant's agent. The court may waive or reduce the
4 amount of the payment required by this subdivision upon a finding of just
5 cause to grant such a waiver or reduction.

- 6 (8) For the services of any crime laboratory facility operated by a local
7 government or group of local governments, the district or superior court
8 judge shall, upon conviction, order payment of the sum of three hundred
9 dollars (\$300.00) to be remitted to the general fund of the local
10 governmental unit that operates the laboratory to be used for law
11 enforcement purposes. The cost shall be assessed only in cases in which, as
12 part of the investigation leading to the defendant's conviction, the laboratory
13 has performed DNA analysis of the crime, test of bodily fluids of the
14 defendant for the presence of alcohol or controlled substances, or analysis of
15 any controlled substance possessed by the defendant or the defendant's
16 agent. The costs shall be assessed only if the court finds that the work
17 performed at the local government's laboratory is the equivalent of the same
18 kind of work performed by the State Bureau of Investigation under
19 subdivision (7) of this subsection. The court may waive or reduce the
20 amount of the payment required by this subdivision upon a finding of just
21 cause to grant such a waiver or reduction."

22 **SECTION 15.20.(c)** G.S. 7A-304 is amended by adding a new subsection to read:

23 "(f) Defendants owing costs under this section may either make payment in full when
24 costs are assessed or may make payment on an installment plan arranged with the court.
25 Defendants making use of an installment plan shall pay a onetime setup fee of twenty dollars
26 (\$20.00) to cover the additional costs to the court of receiving and disbursing installment
27 payments. Notwithstanding the provisions of G.S. 7A-304(d)(1), the setup fee authorized by
28 this subsection shall be paid prior to the disbursement of funds for any other purpose. Fees
29 collected under this section shall be remitted to the State Treasurer for support of the General
30 Court of Justice."

31 **SECTION 15.20.(d)** G.S. 7A-305(a) reads as rewritten:

32 "(a) In every civil action in the superior or district court, except for actions brought
33 under Chapter 50B of the General Statutes, shall be assessed:

- 34 (1) For the use of the courtroom and related judicial facilities, the sum of twelve
35 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen
36 dollars (\$16.00) in district and superior court, to be remitted to the county in
37 which the judgment is rendered, except that in all cases in which the
38 judgment is rendered in facilities provided by a municipality, the facilities
39 fee shall be paid to the municipality. Funds derived from the facilities fees
40 shall be used in the same manner, for the same purposes, and subject to the
41 same restrictions, as facilities fees assessed in criminal actions.

- 42 (1a) For the upgrade, maintenance, and operation of the judicial and county
43 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars
44 (\$3.00), to be credited to the Court Information Technology Fund.

- 45 (2) For support of the General Court of Justice, the sum of ~~ninety-three dollars~~
46 ~~(\$93.00)~~ one hundred thirty dollars (\$130.00) in the superior court, except
47 that if a case is assigned to a special superior court judge as a complex
48 business case under G.S. 7A-45.3, an additional two hundred dollars
49 (\$200.00) shall be paid upon its assignment, and the sum of ~~seventy-three~~
50 ~~dollars (\$73.00)~~ seventy-eight dollars (\$78.00) in the district court except
51 that if the case is assigned to a magistrate the sum shall be ~~sixty-three dollars~~

1 ~~(\$63.00):~~ fifty-five dollars (\$55.00). Sums collected under this subdivision
2 shall be remitted to the State Treasurer. The State Treasurer shall remit the
3 sum of two dollars and five cents (\$2.05) of each fee collected under this
4 subdivision to the North Carolina State Bar for the provision of services
5 described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee
6 collected under this subdivision to the North Carolina State Bar for the
7 provision of services described in G.S. 7A-474.19."

8 **SECTION 15.20.(e)** Effective July 1, 2010, G.S. 7A-305(a), as rewritten by
9 subsection (d) of this section, reads as rewritten:

10 "(a) In every civil action in the superior or district court, except for actions brought
11 under Chapter 50B of the General Statutes, shall be assessed:

12 (1) For the use of the courtroom and related judicial facilities, the sum of twelve
13 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen
14 dollars (\$16.00) in district and superior court, to be remitted to the county in
15 which the judgment is rendered, except that in all cases in which the
16 judgment is rendered in facilities provided by a municipality, the facilities
17 fee shall be paid to the municipality. Funds derived from the facilities fees
18 shall be used in the same manner, for the same purposes, and subject to the
19 same restrictions, as facilities fees assessed in criminal actions.

20 (1a) For the upgrade, maintenance, and operation of the judicial and county
21 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars
22 (\$4.00), to be credited to the Court Information Technology Fund.

23 (2) For support of the General Court of Justice, the sum of ~~one hundred thirty~~
24 ~~dollars (\$130.00)~~ one hundred forty dollars (\$140.00) in the superior court,
25 except that if a case is assigned to a special superior court judge as a
26 complex business case under G.S. 7A-45.3, an additional two hundred
27 dollars (\$200.00) shall be paid upon its assignment, and the sum of
28 ~~seventy eight dollars (\$78.00)~~ eighty dollars (\$80.00) in the district court
29 except that if the case is assigned to a magistrate the sum shall be fifty-five
30 dollars (\$55.00). Sums collected under this subdivision shall be remitted to
31 the State Treasurer. The State Treasurer shall remit the sum of two dollars
32 and five cents (\$2.05) of each fee collected under this subdivision to the
33 North Carolina State Bar for the provision of services described in
34 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this
35 subdivision to the North Carolina State Bar for the provision of services
36 described in G.S. 7A-474.19."

37 **SECTION 15.20.(f)** G.S. 7A-306(a)(1a) reads as rewritten:

38 "(1a) For the upgrade, maintenance, and operation of the judicial and county
39 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars
40 (\$3.00), to be credited to the Court Information Technology Fund."

41 **SECTION 15.20.(g)** Effective July 1, 2010, G.S. 7A-306(a)(1a), as amended by
42 subsection (f) of this section, reads as rewritten:

43 "(1a) For the upgrade, maintenance, and operation of the judicial and county
44 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars
45 (\$4.00), to be credited to the Court Information Technology Fund."

46 **SECTION 15.20.(h)** G.S. 7A-307(a)(1a) reads as rewritten:

47 "(1a) For the upgrade, maintenance, and operation of the judicial and county
48 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars
49 (\$3.00), to be credited to the Court Information Technology Fund."

50 **SECTION 15.20.(i)** Effective July 1, 2010, G.S. 7A-307(a)(1a), as amended by
51 subsection (h) of this section, reads as rewritten:

1 "(1a) For the upgrade, maintenance, and operation of the judicial and county
2 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars
3 (\$4.00), to be credited to the Court Information Technology Fund."

4 **SECTION 15.20.(j)** G.S. 20-135.2A(e) reads as rewritten:

5 "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this
6 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
7 (\$25.00) plus court ~~costs in the sum of seventy five dollars (\$75.00)~~. costs. Any rear seat
8 occupant of a vehicle who fails to wear a seat belt as required by this section shall have
9 committed an infraction and shall pay a penalty of ten dollars (\$10.00) and no court costs.
10 ~~Court costs assessed under this section are for the support of the General Court of Justice and~~
11 ~~shall be remitted to the State Treasurer.~~ Conviction of an infraction under this section has no
12 other consequence."

13 **SECTION 15.20.(k)** G.S. 20-140.4 reads as rewritten:

14 "**§ 20-140.4. Special provisions for motorcycles and mopeds.**

15 (a) No person shall operate a motorcycle or moped upon a highway or public vehicular
16 area:

17 (1) When the number of persons upon such motorcycle or moped, including the
18 operator, shall exceed the number of persons which it was designed to carry.

19 (2) Unless the operator and all passengers thereon wear on their heads, with a
20 retention strap properly secured, safety helmets of a type that complies with
21 Federal Motor Vehicle Safety Standard (FMVSS) 218.

22 (b) Violation of any provision of this section shall not be considered negligence per se
23 or contributory negligence per se in any civil action.

24 (c) Any person convicted of violating this section shall have committed an infraction
25 and shall ~~be fined according to G.S. 20-135.2A(e) and (f)~~. pay a penalty of twenty-five dollars
26 (\$25.00) plus court costs. Conviction of an infraction under this section has no other
27 consequence.

28 (d) No drivers license points or insurance surcharge shall be assessed on account of
29 violation of this section."

30 **SECTION 15.20.(l)** Subsections (a), (j), and (k) of this section become effective
31 July 1, 2009, and apply to all costs assessed or collected on or after that date, except that in
32 misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver
33 of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4)
34 or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date,
35 the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a)
36 of this section, or those specified in the notice portion of the defendant's or respondent's copy of
37 the citation or other criminal process, if any costs are specified in that notice.

38 Subsection (b) of this section becomes effective July 1, 2010, and applies to all costs
39 assessed or collected on or after that date, except that in misdemeanor or infraction cases
40 disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of
41 guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the
42 citation or other criminal process was issued before that date, the cost shall be the lesser of
43 those specified in G.S. 7A-304(a), as amended by subsection (b) of this section, or those
44 specified in the notice portion of the defendant's or respondent's copy of the citation or other
45 criminal process, if any costs are specified in that notice.

46 Subsections (e), (g), and (i) of this section become effective July 1, 2010, and apply
47 to fees assessed or collected on or after that date. The remainder of this section becomes
48 effective July 1, 2009, and applies to fees assessed or collected on or after that date.

49
50 **PART XVI. DEPARTMENT OF JUSTICE**

1 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS**
2 **PAY FOR USE OF STATE FACILITIES AND SERVICES**

3 **SECTION 16.1.** The Private Protective Services and Alarm Systems Licensing
4 Boards shall pay the appropriate State agency for the use of physical facilities and services
5 provided to those Boards by the State.
6

7 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW**
8 **ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

9 **SECTION 16.2.(a)** Assets transferred to the Departments of Justice, Correction,
10 and Crime Control and Public Safety during the 2009-2011 fiscal biennium pursuant to
11 applicable federal law shall be credited to the budgets of the respective departments and shall
12 result in an increase of law enforcement resources for those departments. The Departments of
13 Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative
14 Commission on Governmental Operations upon receipt of the assets and, before using the
15 assets, shall report on the intended use of the assets and the departmental priorities on which
16 the assets may be expended.

17 **SECTION 16.2.(b)** The General Assembly finds that the use of assets transferred
18 pursuant to federal law for new personnel positions, new projects, acquisition of real property,
19 repair of buildings where the repair includes structural change, and construction of or additions
20 to buildings may result in additional expenses for the State in future fiscal periods. Therefore,
21 the Department of Justice, the Department of Correction, and the Department of Crime Control
22 and Public Safety are prohibited from using these assets for such purposes without the prior
23 approval of the General Assembly.

24 **SECTION 16.2.(c)** Nothing in this section prohibits North Carolina law
25 enforcement agencies from receiving funds from the United States Department of Justice, the
26 United States Department of the Treasury, and the United States Department of Health and
27 Human Services.
28

29 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

30 **SECTION 16.3.** Client departments, agencies, and boards shall reimburse the
31 Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other
32 costs directly related to litigation in which the Department of Justice is representing the
33 department, agency, or board.
34

35 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
36 **DISBURSED**

37 **SECTION 16.4.** The North Carolina Legal Education Assistance Foundation shall
38 report by March 1 of each year to the Joint Legislative Commission on Governmental
39 Operations and the Chairs of the House of Representatives and Senate Appropriations
40 Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of
41 the expenditures, the number of attorneys receiving funds, the average award amount, the
42 average student loan amount, the number of attorneys on the waiting list, and the average
43 number of years for which attorneys receive loan assistance.
44

45 **HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF**
46 **INVESTIGATION**

47 **SECTION 16.5.** The Department of Justice may hire sworn personnel to fill vacant
48 positions in the State Bureau of Investigation only in the following circumstances: (i) the
49 position's regular responsibilities involve warrant executions, property searches, criminal
50 investigations, or arrest activities that are consistent in frequency with the responsibilities of
51 other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the

1 State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist
2 position which requires "responding to clandestine methamphetamine laboratories" as a
3 primary duty; (iv) the position is a forensic impressions analyst position which requires
4 "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the
5 position primarily involves supervising sworn personnel.

6
7 **REDUCE DEPARTMENT SHARE OF PAYMENT FOR JUDGMENTS AGAINST**
8 **COUNTY AND CITY BOARDS OF EDUCATION**

9 **SECTION 16.6.(a)** G.S. 143-300.1(c) reads as rewritten:

10 "(c) In the event ~~that of settlement pursuant to G.S. 143-295 or in the event~~ the Industrial
11 Commission awards damages against any county or city board of education under this section,
12 the Attorney General shall draw a voucher for the amount required to pay the award. The funds
13 necessary to cover ~~the first one hundred fifty thousand dollars (\$150,000) of liability per claim~~
14 ~~the liability~~ for claims against county and city boards of education for accidents involving
15 school buses and school transportation service vehicles shall be made available from funds
16 appropriated to the State Board of ~~Education. The balance of any liability owed shall be paid in~~
17 ~~accordance with G.S. 143-299.4. Education for that purpose. On January 1 and June 1 of each~~
18 ~~year, each county and city board of education shall pay the State Board of Education an amount~~
19 ~~equal to fifty percent (50%) of the damages paid by the State Board of Education pursuant to~~
20 ~~this subsection during the preceding six months. These receipts shall be used to offset fifty~~
21 ~~percent (50%) of the costs incurred by the State Board of Education pursuant to this subsection.~~
22 Neither the county or city boards of education, or the county or city administrative unit shall be
23 liable for the payment of any award made pursuant to the provisions of this section in excess of
24 the amount paid upon a voucher by the Attorney General. Settlement and payment may be
25 made by the Attorney General as provided in G.S. 143-295."

26 **SECTION 16.6.(b)** G.S. 143-300.1(d) reads as rewritten:

27 "(d) Except as otherwise provided in this subsection, the Attorney General may, upon the
28 request of an employee or former employee, defend any civil action brought against the driver,
29 transportation safety assistant, or monitor of a public school bus or school transportation
30 service vehicle or school bus maintenance mechanic when the driver or mechanic is employed
31 and paid by the local school administrative unit, when the monitor is acting in accordance with
32 G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with
33 G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the
34 supervision of an authorized employee of the Department of Transportation, Division of Motor
35 Vehicles, or an authorized employee of a county or city board of education or administrative
36 unit. The Attorney General may afford this defense through the use of a member of his staff or,
37 in his discretion, employ private counsel. The Attorney General is authorized to pay any
38 judgment rendered in the civil action not to exceed the limit provided under the Tort Claims
39 Act. The funds necessary to cover ~~the first one hundred fifty thousand dollars (\$150,000) of~~
40 ~~liability per claim~~ ~~the liability~~ shall be made available from funds appropriated to the State
41 Board of ~~Education. The balance of any liability owed shall be paid in accordance with~~
42 ~~G.S. 143-299.4. Education for that purpose. On January 1 and June 1 of each year, each county~~
43 ~~and city board of education shall pay the State Board of Education an amount equal to fifty~~
44 ~~percent (50%) of the damages paid by the State Board of Education pursuant to this subsection~~
45 ~~during the preceding six months. These receipts shall be used to offset fifty percent (50%) of~~
46 ~~the costs incurred by the State Board of Education pursuant to this subsection.~~ The Attorney
47 General may compromise and settle any claim covered by this section to the extent that he finds
48 the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority
49 granted in this subsection shall be limited to only those claims that would be within the
50 jurisdiction of the Industrial Commission under the Tort Claims Act.

1 The Attorney General shall refuse to provide for the defense of a civil action or proceeding
2 brought against an employee or former employee if the Attorney General determines that:

- 3 (1) The act or omission was not within the scope and course of his employment
4 as a State employee; or
- 5 (2) The employee or former employee acted or failed to act because of actual
6 fraud, corruption, or actual malice on his part; or
- 7 (3) Defense of the action or proceeding by the State would create a conflict of
8 interest between the State and the employee or former employee; or
- 9 (4) Defense of the action or proceeding would not be in the best interests of the
10 State."

11 12 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

13 14 **REPORT ON THE USE OF ILLEGAL IMMIGRATION PROJECT FUNDS**

15 **SECTION 17.1.** No later than March 1, 2010, the North Carolina Sheriffs'
16 Association, Inc., shall submit a report to the Chairs of the House and Senate Appropriations
17 Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice
18 and Public Safety on the operations and effectiveness of the Illegal Immigration Project. The
19 report shall include all of the following:

- 20 (1) An overview of the program.
- 21 (2) The program budget.
- 22 (3) A summary of work done with funds received, which shall include the
23 following information:
 - 24 a. The total number of law enforcement agencies that received funding
25 from the program for officer training.
 - 26 b. The total number of officers trained.
 - 27 c. The total number of training sessions administered.
 - 28 d. Copies of educational/informational materials distributed.
- 29 (4) Recommendations on ways that federal, State, and local resources can be
30 used to further improve the effectiveness of the Illegal Immigration Project
31 and other immigration enforcement initiatives.

32 33 **ABOLISH BUTNER PUBLIC SAFETY DIVISION**

34 **SECTION 17.2.(a)** G.S. 122C-408 is repealed.

35 **SECTION 17.2.(b)** Beginning on the effective date of this act, the Town of Butner
36 shall provide fire and police protection within its incorporated limits. The service required by
37 this section shall be at least the same level of service that the Town of Butner was previously
38 provided pursuant to contract with the Department of Crime Control and Public Safety.

39 **SECTION 17.2.(c)** The Charter of the Town of Butner, as enacted by Section 1 of
40 S.L. 2007-269, is amended by adding a new Article to read:

41 "ARTICLE IX. POLICE DEPARTMENT.

42 "Section 9.1. **Appointment; Powers; and Duties of Chief of Police and Police Officers.**

43 (a) Chief. The Mayor shall appoint the Chief of Police. The Chief of Police shall have
44 immediate direction and control of the Police Department, subject to the supervision of the
45 Mayor, and to such rules, regulations, and orders as the Mayor may prescribe.

46 (b) General Powers. The Chief of Police and each member of the police force shall
47 have, for the purpose of enforcing Town ordinances and regulations, or preserving the peace of
48 the Town, and of suppressing disturbances, and apprehending offenders, the powers of peace
49 officers vested in sheriffs and constables.

50 (c) Public Peace. The Chief of Police and other police officers of the Town shall have
51 the power, and it shall be their duty, to suppress all breaches of the public peace, and all

1 disturbances of the quiet and good order of the Town, and they may, with or without warrant,
2 arrest, anywhere within the corporate limits of the Town, or within one mile thereof, any person
3 charged with the violation of any ordinance of the Town, or with any other offense whatsoever
4 against the public peace, and the quiet and good order of the community.

5 (d) Other Duties. In addition to the foregoing, the Chief of Police and other police
6 officers shall perform such other duties as may from time to time be prescribed by the Mayor
7 not inconsistent with the Constitution and laws of the State of North Carolina and the
8 provisions of this Charter.

9 "Section 9.2. **Police Emergency Lines.** The Chief of Police or other police officer in
10 charge at the scene of a parade, accident, disturbance, crime scene, natural or artificial disaster,
11 or emergency, or any large gathering of people shall have authority to provide barricades,
12 ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law
13 enforcement officer, firefighter, or other person having official business at the scene to cross
14 such a line without express permission of the police officer at the scene."

15 **SECTION 17.2.(d)** The Charter of the Town of Butner, as enacted by Section 1 of
16 S.L. 2007-269, is amended by adding a new Article to read:

17 "ARTICLE X. FIRE DEPARTMENT.

18 "Section 10.1. **Appointment; Powers; and Duties of Fire Chief.**

19 (a) Appointment; General Authority. The Mayor shall appoint a Fire Chief. The Fire
20 Chief shall have immediate direction and control of the Fire Department, subject to the
21 supervision of the Mayor and to such rules, regulations, and orders as the Mayor may prescribe.

22 (b) Destroying Property at Fires. The Fire Chief, and in the Fire Chief's absence, any
23 assistant, may order the blowing up, tearing down, or other destruction of any building when it
24 is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or
25 criminally, for acting in obedience to their orders, nor shall the Fire Chief or any assistant, the
26 Town, the Mayor, or the Town Council be held liable, civilly or criminally, for the giving of
27 such orders or for damages to property ordered destroyed.

28 (c) Fire, etc., Emergency Lines. The Chief of Police or other police officer, or the Fire
29 Chief or any assistant, in charge at the scene of a fire, accident, disturbance, natural or artificial
30 disaster or emergency, or any large gathering of people shall have authority to provide
31 barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person
32 other than a law enforcement officer, firefighter, or other person having official business at the
33 scene to cross such a line without express permission of the person in charge at the scene.

34 (d) Other Duties. The Fire Chief and other firefighters shall perform such other duties in
35 addition to those provided in this Charter as may be prescribed by law or Town ordinances, or
36 that may from time to time be prescribed by the Mayor."

37 **SECTION 17.2.(e)** G.S. 122C-414 is repealed.

38 **SECTION 17.2.(f)** G.S. 143-341(8)i.3. reads as rewritten:

39 "3. To require on a schedule determined by the Department all
40 State agencies to transfer ownership, custody or control of
41 any or all passenger motor vehicles within the ownership,
42 custody or control of that agency to the Department, except
43 those motor vehicles under the ownership, custody or control
44 of the Highway Patrol or the State Bureau of Investigation
45 which are used primarily for law-enforcement purposes, and
46 ~~except those motor vehicles under the ownership, custody or~~
47 ~~control of the Department of Crime Control and Public Safety~~
48 ~~for Butner Public Safety which are used primarily for~~
49 ~~law-enforcement, fire, or emergency purposes."~~

50 **SECTION 17.2.(g)** G.S. 160A-288(d)(4) is repealed.

51 **SECTION 17.2.(h)** G.S. 160A-288.2(d)(3) is repealed.

1 **SECTION 17.2.(i)** Subsections 1(a) and 1(b) of Chapter 830 of the 1983 Session
2 Laws, as amended by Section 43.3 of S.L. 2005-276 and Section 14 of S.L. 2007-269, are
3 repealed.

4 **SECTION 17.2.(j)** Subsection (i) of this section shall have no effect upon the
5 validity of any liens of the State, Durham County, Granville County, or the Butner Police and
6 Fire Protection District for ad valorem taxes outstanding before the effective date of subsection
7 (i) of this section. Such liens may be collected or foreclosed upon after the effective date of
8 subsection (i) of this section as though the property were still within the corporate limits of the
9 District.

10
11 **TRANSFER OF STATE CAPITOL POLICE TO THE DEPARTMENT OF CRIME**
12 **CONTROL AND PUBLIC SAFETY**

13 **SECTION 17.3.(a)** The State Capitol Police is hereby transferred by a Type I
14 transfer, as defined in G.S. 143A-6, from the Department of Administration to the Department
15 of Crime Control and Public Safety.

16 **SECTION 17.3.(b)** G.S. 143-340(21) and (22) are repealed.

17 **SECTION 17.3.(c)** G.S. 143-341.1 is repealed.

18 **SECTION 17.3.(d)** G.S. 143B-475(a) reads as rewritten:

19 "(a) All functions, powers, duties and obligations heretofore vested in the following
20 subunits of the following departments are hereby transferred to and vested in the Department of
21 Crime Control and Public Safety:

- 22 (1) The National Guard, Department of Military and Veterans ~~Affairs;~~Affairs.
- 23 (2) Civil Preparedness, Department of Military and Veterans ~~Affairs;~~Affairs.
- 24 (3) State Civil Air Patrol, Department of Military and Veterans ~~Affairs;~~Affairs.
- 25 (4) State Highway Patrol, Department of ~~Transportation;~~Transportation.
- 26 (5) State Board of Alcoholic Control Enforcement Division, Department of
27 ~~Commeree;~~Commerce.
- 28 (6) Governor's Crime Commission, Department of Natural and Economic
29 ~~Resources;~~Resources.
- 30 (7) Crime Control Division, Department of Natural and Economic
31 ~~Resources;~~Resources.
- 32 (8) Criminal Justice Information System Board, Department of Natural and
33 Economic ~~Resources;~~ andResources.
- 34 (9) Criminal Justice Information System Security and Privacy Board,
35 Department of Natural and Economic Resources.
- 36 (10) The Commercial Vehicle, Oversize/Overweight, Motor Carrier Safety
37 Regulation and Mobile Home and Manufactured Housing regulatory and
38 enforcement functions of the Department of Transportation, Division of
39 Motor Vehicles Enforcement Section.

40 (11) State Capitol Police, Department of Administration."

41 **SECTION 17.3.(e)** G.S. 143B-476(a) reads as rewritten:

42 "(a) The head of the Department of Crime Control and Public Safety is the Secretary of
43 Crime Control and Public Safety, who shall be known as the Secretary. The Secretary shall
44 have such powers and duties as are conferred on him by this Chapter, delegated to him by the
45 Governor, and conferred on him by the Constitution and laws of this State. These powers and
46 duties include:

- 47 (1) Accepting gifts, bequests, devises, grants, matching funds and other
48 considerations from private or governmental sources for use in promoting
49 the work of the Governor's Crime ~~Commission;~~Commission.
- 50 (2) Making grants for use in pursuing the objectives of the Governor's Crime
51 ~~Commission;~~Commission.

- 1 (3) Adopting rules as may be required by the federal government for federal
2 grants-in-aid for criminal justice purposes and to implement and carry out
3 the regulatory and enforcement duties assigned to the Department of Crime
4 Control and Public Safety as provided by the various commercial vehicle,
5 oversize/overweight, motor carrier safety, motor fuel, and mobile and
6 manufactured home statutes.
- 7 (4) Ascertaining the State's duties concerning grants to the State by the Law
8 Enforcement Assistance Administration of the United States Department of
9 Justice, and developing and administering a plan to ensure that the State
10 fulfills its ~~duties; and~~ duties.
- 11 (5) Administering the Assistance Program for Victims of Rape and Sex
12 Offenses.
- 13 (6) Appointing, with the Governor's approval, a special police officer to serve as
14 Director of the State Capitol Police Division."

15 **SECTION 17.3.(f)** Chapter 143B of the General Statutes is amended by adding a
16 new Part to read:

17 "Part 7. State Capitol Police Division.

18 "§ 143B-508. State Capitol Police Division – powers and duties.

19 (a) Division Established. – There is hereby established, within the Department of Crime
20 Control and Public Safety, the State Capitol Police Division, which shall be organized and
21 staffed in accordance with applicable laws and regulations and within the limits of authorized
22 appropriations.

23 (b) Purpose. – The State Capitol Police Division shall serve as a special police agency
24 of the Department of Crime Control and Public Safety. The Director of the State Capitol Police,
25 appointed by the Secretary pursuant to G.S. 143B-476(6), with the approval of the Governor,
26 may appoint as special police officers such reliable persons as he may deem necessary.

27 (c) Appointment of Officers. – Special police officers appointed pursuant to this section
28 may not exercise the power of arrest until they shall take an oath, to be administered by any
29 person authorized to administer oaths, as required by law.

30 (d) Jurisdiction of Officers. – Each special police officer of the State Capitol Police
31 shall have the same power of arrest as the police officers of the City of Raleigh. Such authority
32 may be exercised within the same territorial jurisdiction as exercised by the police officers of
33 the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised
34 on property owned, leased, or maintained by the State located in the County of Wake.

35 (f) Public Safety. – The Director of the State Capitol Police, or the Director's designee,
36 shall exercise at all times those means that, in the opinion of the Director or the designee, may
37 be effective in protecting all State buildings and grounds, except for the State legislative
38 buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings
39 and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous
40 conditions, including both the ordering and control of the evacuation of those buildings and
41 grounds. The Director, or the Director's designee, may employ the assistance of other available
42 law enforcement agencies and emergency agencies to aid and assist in evacuations of those
43 buildings and grounds."

44
45 **STUDY CONSOLIDATION OF LAW ENFORCEMENT AGENCIES**

46 **SECTION 17.4.** The Office of State Budget and Management shall study the
47 feasibility of consolidating the law enforcement agencies in the executive branch of State
48 government for the purpose of coordinating the activities of these agencies, and reducing
49 duplication and overlapping of law enforcement responsibilities, training, and technical
50 assistance among State law enforcement agencies. The Office of State Budget and

1 Management shall report its findings and recommendations by February 1, 2010, to the Joint
2 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

4 **LAW ENFORCEMENT SUPPORT SERVICES FEES**

5 **SECTION 17.5.** Article 11 of Chapter 143B of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 7. Law Enforcement Support Services Division.

8 **"§ 143B-508. Law Enforcement Support Services Division established.**

9 (a) There is hereby established, within the Department of Crime Control and Public
10 Safety, the Law Enforcement Support Services Division, which shall be organized and staffed
11 in accordance with this Part and within the limits of authorized appropriations.

12 (b) The Law Enforcement Support Services Division is authorized to perform the
13 following functions:

14 (1) Manage State, local, and federal programs that facilitate or enable the
15 transfer of technology, goods, and services through programs for excess
16 property, property acquisition, and equipment loans.

17 (2) Provide central storage and management of evidence according to the
18 provisions of Article 13 of Chapter 15A of the General Statutes and create
19 and maintain a data bank or statewide storage location of postconviction
20 evidence or other similar programs.

21 (3) Provide central storage and management of rape kits according to the federal
22 Violence Against Women and Department of Justice Reauthorization Act of
23 2005 with specific protections against release of names of victims providing
24 anonymous or "Jane Doe" rape kits without victim consent.

25 (4) Acquire, maintain, and control equipment to be loaned to law enforcement
26 agencies for use in undercover investigations and to other agencies for other
27 purposes.

28 (5) Develop, test, and promulgate innovative and technological solutions for the
29 first responder community.

30 (c) In order to meet the anticipated costs of administering its functions, the Division is
31 authorized to charge and collect such fees as it may by rule establish. Fees collected under this
32 Section shall be credited to the Division and applied to the cost of administering the program."

34 **INCREASE CHARITABLE BINGO LICENSING FEE**

35 **SECTION 17.6.** G.S. 14-309.7(a) reads as rewritten:

36 "(a) An exempt organization may not operate a bingo game at a location without a
37 license. Application for a bingo license shall be made to the Department of Crime Control and
38 Public Safety on a form prescribed by the Department. The Department shall charge an annual
39 application fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) to defray the
40 cost of issuing bingo licenses and handling bingo audit reports. The fees collected shall be
41 deposited in the General Fund of the State. This license shall expire one year after the granting
42 of the license. This license may be renewed yearly, if the applicant pays the application fee and
43 files an audit with the Department pursuant to G.S. 14-309.11. A copy of the application and
44 license shall be furnished to the local law-enforcement agency in the county or municipality in
45 which the licensee intends to operate before bingo is conducted by the licensee."

47 **INCREASE FEES FOR LICENSING BOXERS AND FOR TICKETS SOLD AT** 48 **BOXING EVENTS**

49 **SECTION 17.7.(a)** G.S. 143-655(a) reads as rewritten:

50 "(a) License Fees. – The Division shall collect the following license fees:

51 Announcer \$75.00

1	Contestant	\$37.50 <u>\$50.00</u>
2	Judge	\$75.00
3	Manager	\$150.00
4	Matchmaker	\$300.00
5	Promoter	\$450.00
6	Referee	\$75.00
7	Timekeeper	\$75.00
8	Second	\$37.50 <u>\$50.00</u> ."

9 **SECTION 17.7.(b)** G.S. 143-655(b1) reads as rewritten:

10 "(b1) Admission Fees. – The Division shall collect a fee in the amount of ~~one dollar and~~
11 ~~fifty cents (\$1.50)~~ two dollars (\$2.00) per each ticket sold to attend events regulated in this
12 Article."

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

16
17 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

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

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

30
31 **REPORTS ON CERTAIN PROGRAMS**

32 **SECTION 18.2.(a)** Project Challenge North Carolina, Inc., shall report to the
33 Department of Juvenile Justice and Delinquency Prevention and the Chairs of the Senate and
34 House of Representatives Appropriations Subcommittees on Justice and Public Safety by April
35 1 each year on the operation and the effectiveness of its program in providing alternative
36 dispositions and services to juveniles who have been adjudicated delinquent or undisciplined.
37 The report shall include information on:

- 38 (1) The source of referrals for juveniles.
- 39 (2) The types of offenses committed by juveniles participating in the program.
- 40 (3) The amount of time those juveniles spend in the program.
- 41 (4) The number of juveniles who successfully complete the program.
- 42 (5) The number of juveniles who commit additional offenses after completing
43 the program.
- 44 (6) The program's budget and expenditures, including all funding sources.

45 **SECTION 18.2.(b)** The Juvenile Assessment Center shall report to the Chairs of
46 the Senate and House of Representatives Appropriations Subcommittees on Justice and Public
47 Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
48 Committee on the effectiveness of the Center by April 1 each year. The report shall include
49 information on the number of juveniles served and an evaluation of the effectiveness of
50 juvenile assessment plans and services provided as a result of these plans. In addition, the

1 report shall include information on the Center's budget and expenditures, including all funding
2 sources.

3 4 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

5 **SECTION 18.3.** Funds appropriated in this act to the Department of Juvenile
6 Justice and Delinquency Prevention for the 2009-2010 fiscal year may be used as matching
7 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives
8 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office
9 of State Budget and Management and the Governor's Crime Commission shall consult with the
10 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding
11 federal funds. The Office of State Budget and Management, the Governor's Crime
12 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report
13 to the Appropriations Committees of the Senate and House of Representatives and the Joint
14 Legislative Commission on Governmental Operations prior to allocation of the federal funds.
15 The report shall identify the amount of funds to be received for the 2009-2010 fiscal year, the
16 amount of funds anticipated for the 2009-2010 fiscal year, and the allocation of funds by
17 program and purpose.

18 19 **TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS**

20 **SECTION 18.4.** The Department shall implement the staffing treatment model
21 presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
22 Committee as part of the Department's November 14, 2006, report regarding the joint use with
23 the Department of Correction of the Swannanoa Youth Development Center campus.

24 The staffing levels of the new youth development centers shall be capped at 66 staff
25 for a 32-bed facility and 198 staff for the 96-bed facility for the 2009-2011 fiscal biennium.
26 Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other
27 existing youth development center.

28 29 **ESTABLISHMENT OF A GANG PREVENTION AND INTERVENTION PILOT 30 PROGRAM**

31 **SECTION 18.5.(a)** As part of the Governor's Comprehensive Gang Initiative, the
32 Department of Juvenile Justice and Delinquency Prevention shall establish a two-year Gang
33 Prevention and Intervention Pilot Program that will focus on youth at risk for gang involvement
34 and those who are already associated with gangs and gang activity. The Department of
35 Juvenile Justice and Delinquency Prevention shall:

- 36 (1) Ensure that measurable performance indicators and systems are put in place
37 to evaluate the effectiveness of the pilot program, and
- 38 (2) Conduct both process- and outcome-focused evaluations of the pilot
39 program to determine community and institutional impacts of the pilot
40 program pertaining to gang behavior, desistance, and activities. These
41 evaluations may consider the degree of successful implementation of the
42 program and measurable changes in gang-related and gang-affiliated
43 behaviors noted in institutional, court system, communities, and related
44 programs.

45 **SECTION 18.5.(b)** The Department of Juvenile
46 Justice and Delinquency Prevention shall report to the Chairs of the Senate and
47 House of Representatives Appropriations Subcommittees on Justice and Public Safety and the
48 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
49 implementation and continuing operation of the pilot program by April 1 each year. The report
50 shall include information on the number of juveniles served and an evaluation of the

1 effectiveness of the pilot program. In addition, the report shall include the information set out
2 in subsection (a) of this section.

4 **ELIMINATE SUPPORT OUR STUDENTS PROGRAM**

5 **SECTION 18.6.** Part 5A of Article 3 of Chapter 143B of the General Statutes is
6 repealed.

8 **JUVENILE CRIME PREVENTION COUNCIL (JCPC) GRANT REPORTING AND** 9 **CERTIFICATION**

10 **SECTION 18.7.** On or before October 1 of each year, the Department of Juvenile
11 Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on
12 Governmental Operations and the Appropriations Committees of the Senate and House of
13 Representatives a list of the recipients of the grants awarded, or preapproved for award, from
14 funds appropriated to the Department for local Juvenile Crime Prevention Council grants,
15 including:

- 16 (1) The amount of the grant awarded.
- 17 (2) The membership of the local committee or council administering the award
18 funds on the local level.
- 19 (3) The type of program funded.
- 20 (4) A short description of the local services, programs, or projects that will
21 receive funds.
- 22 (5) Identification of any programs that received grant funds at one time but for
23 which funding has been eliminated by the Department.
- 24 (6) The number of at-risk, diverted, and adjudicated juveniles served by each
25 county.
- 26 (7) The Department's actions to ensure that county JCPCs prioritize funding for
27 dispositions of intermediate and community-level sanctions for
28 court-adjudicated juveniles under minimum standards adopted by the
29 Department.
- 30 (8) The total cost for each funded program, including the cost per juvenile and
31 the essential elements of the program.

32 A written copy of the list and other information regarding the projects shall also be
33 sent to the Fiscal Research Division of the General Assembly.

35 **PART XIX. DEPARTMENT OF CORRECTION**

37 **INMATE ROAD SQUADS AND LITTER CREWS**

38 **SECTION 19.1.** Of the funds appropriated to the Department of Transportation in
39 this act, the sum of eleven million three hundred thousand dollars (\$11,300,000) per year shall
40 be transferred by the Department to the Department of Correction during the 2009-2010 and
41 2010-2011 fiscal years for the cost of operating medium custody inmate road squads, as
42 authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be
43 made quarterly in the amount of two million eight hundred twenty-five thousand dollars
44 (\$2,825,000). The Department of Transportation may use funds appropriated in this act to pay
45 an additional amount exceeding the eleven million three hundred thousand dollars
46 (\$11,300,000), but those payments shall be subject to negotiations among the Department of
47 Transportation, the Department of Correction, and the Office of State Budget and Management
48 prior to payment by the Department of Transportation.

49 The Office of State Budget and Management shall conduct a study, in consultation
50 with the Department of Correction and the Department of Transportation, to determine the
51 actual cost and cost/benefit of operating medium custody road squads and minimum custody

1 litter crews. The Office of State Budget and Management shall report the results of this study to
2 the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
3 and to the Joint Legislative Transportation Oversight Committee by March 1, 2010. The study
4 shall include a recommendation on whether or not the amount transferred from the Department
5 of Transportation to the Department of Correction for this work is adequate.

6 7 **FEDERAL GRANT REPORTING**

8 **SECTION 19.2.** The Department of Correction, the Department of Justice, the
9 Department of Crime Control and Public Safety, the Judicial Department, and the Department
10 of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint
11 Legislative Commission on Governmental Operations, the Chairs of the House of
12 Representatives and Senate Appropriations Committees, and the Chairs of the House of
13 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on
14 federal grant funds received or preapproved for receipt by those departments. The report shall
15 include information on the amount of grant funds received or preapproved for receipt by each
16 department, the use of the funds, the State match expended to receive the funds, and the period
17 to be covered by each grant. If the department intends to continue the program beyond the end
18 of the grant period, the department shall report on the proposed method for continuing the
19 funding of the program at the end of the grant period. Each department shall also report on any
20 information it may have indicating that the State will be requested to provide future funding for
21 a program presently supported by a local grant.

22 23 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL** 24 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES** 25 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

26 **SECTION 19.3.** Notwithstanding G.S. 143C-6-9, the Department of Correction
27 may use funds available to the Department for the 2009-2011 biennium to pay the sum of forty
28 dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted
29 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as
30 provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative
31 Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control,
32 and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and
33 Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate
34 Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to
35 reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail
36 backlog.

37 38 **USE OF CLOSED PRISON FACILITIES**

39 **SECTION 19.4.(a)** In conjunction with the closing of prison facilities, including
40 small expensive prison units recommended for consolidation by the Government Performance
41 Audit Committee, the Department of Correction shall consult with the county or municipality
42 in which the unit is located, with the elected State and local officials, and with State and federal
43 agencies about the possibility of converting that unit to other use. The Department may also
44 consult with any private for-profit or nonprofit firm about the possibility of converting the unit
45 to other use. In developing a proposal for future use of each unit, the Department shall give
46 priority to converting the unit to other criminal justice use. Consistent with existing law and the
47 future needs of the Department of Correction, the State may provide for the transfer or the lease
48 of any of these units to counties, municipalities, State agencies, or private firms wishing to
49 convert them to other use. The Department of Correction may also consider converting some of
50 the units recommended for closing from one security custody level to another, where that
51 conversion would be cost-effective. A prison unit under lease to a county pursuant to the

1 provisions of this section for use as a jail is exempt for the period of the lease from any of the
2 minimum standards adopted by the Secretary of Health and Human Services pursuant to
3 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater
4 standards than those required of a unit of the State prison system.

5 Prior to any transfer or lease of these units, the Department of Correction shall
6 report on the terms of the proposed transfer or lease to the Joint Legislative Commission on
7 Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile
8 Justice Oversight Committee. The Department of Correction also shall provide annual
9 summary reports to the Joint Legislative Commission on Governmental Operations and the
10 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
11 conversion of these units to other use and on all leases or transfers entered into pursuant to this
12 section.

13 **SECTION 19.4.(b)** The Department of Correction shall study the feasibility of
14 establishing probation revocation centers at closed prison facilities. The Department shall
15 consult with counties to explore cost-sharing of these facilities. The Department shall report its
16 findings to the Chairs of the Appropriations Subcommittees on Justice and Public Safety by
17 February 1, 2010.

18 **LIMIT USE OF OPERATIONAL FUNDS**

19 **SECTION 19.5.** Funds appropriated in this act to the Department of Correction for
20 operational costs for additional facilities shall be used for personnel and operating expenses set
21 forth in the budget approved by the General Assembly in this act. These funds shall not be
22 expended for any other purpose, except as provided for in this act, and shall not be expended
23 for additional prison personnel positions until the new facilities are within 120 days of
24 projected completion, except that the Department may establish critical positions prior to 120
25 days of completion representing no more than twenty percent (20%) of the total estimated
26 number of positions.

27 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

28 **SECTION 19.6.** The Department of Correction may continue to contract with The
29 Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison
30 beds for minimum security female inmates during the 2009-2011 biennium. The Center for
31 Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative
32 Commission on Governmental Operations on the annual cost per inmate and the average daily
33 inmate population compared to bed capacity using the same methodology as that used by the
34 Department of Correction.

35 **INMATE MEDICAL COSTS**

36 **SECTION 19.7.** Notwithstanding the provisions of G.S. 143C-6-9, the Department
37 of Correction may use funds available during the 2009-2011 biennium for the inmate medical
38 program if expenditures are projected to exceed the Department's inmate medical continuation
39 budget. The Department shall consult with the Joint Legislative Commission on Governmental
40 Operations prior to exceeding the continuation budget amount.

41 **PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE PROGRAM/MEDICAL RELEASE PROGRAM**

42 **SECTION 19.8.(a)** The Post-Release Supervision and Parole Commission shall,
43 with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the
44 Department of Correction, analyze the amount of time each inmate who is eligible for parole on
45 or before July 1, 2010, has served compared to the time served by offenders under Structured
46 Sentencing for comparable crimes. The Commission shall determine if the person has served
47

1 more time in custody than the person would have served if sentenced to the maximum sentence
2 under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum
3 sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of
4 this section.

5 **SECTION 19.8.(b)** For the purposes of this section, the following rules apply for
6 the calculation of the maximum sentence:

- 7 (1) The offense upon which the person was convicted shall be classified as the
8 same felony class as the offense would have been classified if committed
9 after the effective date of Article 81B of Chapter 15A of the General
10 Statutes.
- 11 (2) The minimum sentence shall be the maximum number of months in the
12 presumptive range of minimum durations in Prior Record Level VI of
13 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)
14 of this subsection. The maximum sentence shall be calculated using
15 G.S. 15A-1340.17(d), (e), or (e1).
- 16 (3) If a person is serving sentences for two or more offenses that are concurrent
17 in any respect, then the offense with the greater classification shall be used
18 to determine a single maximum sentence for the concurrent offenses. The
19 fact that the person has been convicted of multiple offenses may be
20 considered by the Commission in making its determinations under
21 subsection (a) of this section.

22 **SECTION 19.8.(c)** The Post-Release Supervision and Parole Commission shall
23 report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
24 Committee and to the Chairs of the House of Representatives and Senate Appropriations
25 Committees, and the Chairs of the House of Representatives and Senate Appropriations
26 Subcommittees on Justice and Public Safety by April 1, 2010. The report shall include the
27 following: the class of the offense for which each parole-eligible inmate was convicted and
28 whether an inmate had multiple criminal convictions. The Commission shall reinstate the
29 parole review process for each offender who has served more time than that person would have
30 under Structured Sentencing as provided by subsections (a) and (b) of this section.

31 The Commission shall also report on the number of parole-eligible inmates
32 reconsidered in compliance with this section and the number who were actually paroled.

33 **SECTION 19.8.(d)** The Department of Correction and the Post-Release
34 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the
35 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
36 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
37 Committee on the number of inmates enrolled in the mutual agreement parole program, the
38 number completing the program and being paroled, and the number who enrolled but were
39 terminated from the program. The information should be based on the previous calendar year.

40 **SECTION 19.8.(e)** The Department of Correction and the Post-Release
41 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the
42 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
43 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
44 Committee on the number of inmates proposed for release, considered for release, and granted
45 release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical
46 release of inmates who are either permanently and totally disabled, terminally ill, or geriatric.

47 **FEDERAL GRANT MATCHING FUNDS**

48 **SECTION 19.9.** Notwithstanding the provisions of G.S. 143C-6-9, the Department
49 of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)
50 during the 2009-2010 fiscal year from funds available to the Department to provide the State
51

1 match needed in order to receive federal grant funds. Prior to using funds for this purpose, the
2 Department shall report to the Chairs of the House of Representatives and Senate
3 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
4 Commission on Governmental Operations on the grants to be matched using these funds.

6 **REPORTS ON NONPROFIT PROGRAMS**

7 **SECTION 19.10.(a)** Funds appropriated in this act to the Department of Correction
8 to support the programs of Harriet's House may be used for program operating costs, the
9 purchase of equipment, and the rental of real property to serve women released from prison
10 with children in their custody. Harriet's House shall report by February 1 of each year to the
11 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and
12 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on
13 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of
14 the program, including information on the number of clients served, the number of clients who
15 successfully complete the Harriet's House program, and the number of clients who have been
16 rearrested within three years of successfully completing the program. The report shall provide
17 financial and program data for the complete fiscal year prior to the year in which the report is
18 submitted. The financial report shall identify all funding sources and amounts.

19 **SECTION 19.10.(b)** Summit House shall report by February 1 of each year to the
20 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and
21 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on
22 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of
23 the program, including information on the number of clients served, the number of clients who
24 have had their probation revoked, the number of clients who successfully complete the program
25 while housed at Summit House, Inc., and the number of clients who have been rearrested
26 within three years of successfully completing the program. The report shall provide financial
27 and program data for the complete fiscal year prior to the year in which the report is submitted.
28 The financial report shall identify all funding sources and amounts.

29 **SECTION 19.10.(c)** Women at Risk shall report by February 1 of each year to the
30 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and
31 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on
32 Justice and Public Safety on the expenditure of State funds and on the effectiveness of the
33 program, including information on the number of clients served, the number of clients who
34 have had their probation revoked, the number of clients who have successfully completed the
35 program, and the number of clients who have been rearrested within three years of successfully
36 completing the program. The report shall provide financial and program data for the complete
37 fiscal year prior to the year in which the report is submitted. The financial report shall identify
38 all funding sources and amounts.

39 **SECTION 19.10.(d)** Our Children's Place shall report by February 1 of each year
40 to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
41 and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on
42 Justice and Public Safety on the status of the planning, design, and construction of Our
43 Children's Place, the proposed program components and evaluation measures, and on the
44 projected number of inmates and their children to be served. The report shall also provide
45 financial data, including the expenditure of State funds and all funding sources and amounts.

47 **CRIMINAL JUSTICE PARTNERSHIP**

48 **SECTION 19.11.(a)** G.S. 143B-273.4 reads as rewritten:

49 **"§ 143B-273.4. Eligible population.**

50 (a) An eligible offender is an adult offender who ~~was convicted of a misdemeanor or a~~
51 ~~felony offense~~ either is in confinement awaiting trial or was convicted of a misdemeanor or a

1 [felony offense](#) and received a nonincarcerative sentence of an intermediate punishment or is
2 serving a term of parole or post-release supervision after serving an active sentence of
3 imprisonment.

4 (b) The priority populations for programs funded under this Article shall ~~be offenders~~
5 [be](#):

6 (1) [Offenders](#) sentenced to intermediate ~~punishments~~; [punishments](#); and

7 (2) [Offenders who are appropriate for release from jail prior to trial under the](#)
8 [supervision of a pretrial monitoring program.](#)"

9 **SECTION 19.11.(b)** Notwithstanding any other provision of law, a county may
10 use funds appropriated pursuant to the Criminal Justice Partnership Act, Article 6A of Chapter
11 143B of the General Statutes, to provide more than one community-based corrections program.

12 **SECTION 19.11.(c)** Effective July 1, 2009, the Department of Correction shall
13 recalculate the county allocation funding formula mandated under G.S. 143B-273.15 using
14 updated data.

15 **SECTION 19.11.(d)** Notwithstanding the provisions of G.S. 143B-273.15
16 specifying that grants to participating counties are for the full fiscal year and that unobligated
17 funds are returned to the State-County Criminal Justice Partnership Account at the end of the
18 grant period, the Department of Correction may reallocate unspent or unclaimed funds
19 distributed to counties participating in the State-County Criminal Justice Partnership Program
20 in an effort to maintain the level of services realized in previous fiscal years.

21 **SECTION 19.11.(e)** The Department of Correction may not deny funds to a county
22 to support both a residential program and a day reporting center if the Department of
23 Correction determines that the county has a demonstrated need and a fully developed plan for
24 each type of sanction.

25 **SECTION 19.11.(f)** The Department of Correction shall report by March 1 of each
26 year to the Chairs of the House of Representatives and Senate Appropriations Committees, the
27 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
28 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
29 Committee on the status of the State-County Criminal Justice Partnership Program. The report
30 shall include the following information:

31 (1) The amount of funds carried over from the prior fiscal year;

32 (2) The dollar amount and purpose of grants awarded to counties as
33 discretionary grants for the current fiscal year;

34 (3) Any counties the Department anticipates will submit requests for new
35 implementation grants;

36 (4) An update on efforts to ensure that all counties make use of the electronic
37 reporting system, including the number of counties submitting offender
38 participation data via the system;

39 (5) An analysis of offender participation data received, including data on each
40 program's utilization and capacity;

41 (6) An analysis of comparable programs prepared by the Division of Research
42 and Planning, Department of Correction, including a comparison of
43 programs in each program type on selected outcome measures developed by
44 the Division of Community Corrections in consultation with the Fiscal
45 Research Division and the Division of Research and Planning, and a
46 summary of the reports prepared by county Criminal Justice Partnerships
47 Advisory Boards;

48 (7) A review of whether each sentenced offender program is meeting established
49 program goals developed by the Division of Community Corrections in
50 consultation with the Division of Research and Planning and the State
51 Criminal Justice Partnership Advisory Board;

- 1 (8) The number of community offenders and intermediate offenders served by
2 each county program;
- 3 (9) The amount of Criminal Justice Partnership funds spent on community
4 offenders and intermediate offenders; and
- 5 (10) A short description of the services and programs provided by each
6 partnership, including who the service providers are and the amount of funds
7 each service provider receives.

8 9 **REPORT ON PROBATION AND PAROLE CASELOADS**

10 **SECTION 19.12.(a)** The Department of Correction shall report by March 1 of each
11 year to the chairs of the House of Representatives and Senate Appropriations Subcommittees
12 on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile
13 Justice Oversight Committee on caseload averages for probation and parole officers. The
14 report shall include:

- 15 (1) Data on current caseload averages and district averages for probation/parole
16 officer positions;
- 17 (2) Data on current span of control for chief probation officers;
- 18 (3) An analysis of the optimal caseloads for these officer classifications;
- 19 (4) An assessment of the role of surveillance officers;
- 20 (5) The number and role of paraprofessionals in supervising low-risk caseloads;
- 21 (6) An update on the Department's implementation of the recommendations
22 contained in the National Institute of Correction study conducted on the
23 Division of Community Corrections in 2004 and 2008;
- 24 (7) The process of assigning offenders to an appropriate supervision level based
25 on a risk assessment and an examination of other existing resources for
26 assessment and case planning, including the Sentencing Services Program in
27 the Office of Indigent Defense Services and the range of screening and
28 assessment services provided by the Division of Mental Health,
29 Developmental Disability, and Substance Abuse Services in the Department
30 of Health and Human Services; and
- 31 (8) Data on cases supervised solely for the collection of court-ordered payments.

32 **SECTION 19.12.(b)** The Department of Correction shall conduct a study of
33 probation/parole officer workload. The study shall include analysis of the type of offenders
34 supervised, the distribution of the probation/parole officers' time by type of activity, the
35 caseload carried by the officers, and comparisons to practices in other states. The study shall be
36 used to determine whether the caseload goals established by the Structured Sentencing Act are
37 still appropriate, based on the nature of the offenders supervised and the time required to
38 supervise those offenders.

39 **SECTION 19.12.(c)** The Department of Correction shall report the results of the
40 study and recommendations for any adjustments to caseload goals to the House of
41 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by
42 January 1, 2011.

43 **SECTION 19.12.(d)** The Department of Correction shall report by March 1 of
44 each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the
45 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
46 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
47 Committee on the following:

- 48 (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- 49 (2) The caseloads of probation officers assigned to GPS-monitored sex
50 offenders.
- 51 (3) The number of violations.

- 1 (4) The number of absconders.
- 2 (5) The projected number of offenders to be enrolled by the end of the
- 3 2009-2010 fiscal year and the end of the 2010-2011 fiscal year.
- 4 (6) The total cost of the program, including a per-offender cost.

6 **REPORT ON INMATE WELFARE AND CORRECTION ENTERPRISES**

7 **SECTION 19.13.** The Department of Correction, in consultation with the Office of
8 State Budget and Management, shall study the feasibility of budgeting positions currently
9 funded from the Inmate Welfare Fund and the Correction Enterprise Fund from the General
10 Fund instead. The Department shall report its findings by April 1, 2010, to the chairs of the
11 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
12 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
13 Committee.

14 **PRE-SENTENCE INVESTIGATIONS FEASIBILITY STUDY**

15 **SECTION 19.14.** The Office of Research and Planning of the Department of
16 Correction shall conduct a feasibility study of conducting pre-sentence investigations on all
17 offenders convicted of felonies for which the sentencing judge has the option of intermediate or
18 active punishments. This feasibility study shall be conducted as a pilot implementation,
19 incorporating a variety of districts across the State reflecting both rural and urban settings, as
20 well as diversity of programming available within the district.

21 The Office of Research and Planning shall report the results of its study by May 1,
22 2010, to the Chairs of the House of Representatives and Senate Appropriations Committees, the
23 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
24 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
25 Committee.

26 **STUDY INCARCERATED MOTHERS PROGRAM**

27 **SECTION 19.15.(a)** Our Children's Place, Inc., a nonprofit corporation, shall
28 submit to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
29 Committee by October 1, 2009, a comprehensive plan for the implementation of a contractual
30 program to house incarcerated women with their children. This plan shall include criteria for
31 placement, minimum standards for custody and security, and projections of costs for
32 implementation, including presumptive funding sources and memoranda of intent from affected
33 agencies.

34 **SECTION 19.15.(b)** The Joint Legislative Corrections, Crime Control, and
35 Juvenile Justice Oversight Committee shall make recommendations to the 2010 Session of the
36 2009 General Assembly concerning the establishment of a program to house incarcerated
37 women with their children. These recommendations shall address legal issues related to the
38 custody of the children while in the program.

39 **PART XX. GENERAL GOVERNMENT**

40 **GENERAL GOVERNMENT AGENCIES REPORT ALLOCATION OF**

41 **DEPARTMENTWIDE REDUCTIONS**

42 **SECTION 20.1.** No later than September 1, 2009, the following State agencies
43 shall identify the allocation of departmentwide expenditure reductions for the 2009-2011 fiscal
44 biennium and shall report the allocation of reductions to the Joint Legislative Commission on
45 Governmental Operations, the Appropriations Subcommittees on General Government of the
46 Senate and the House of Representatives, and the Fiscal Research Division:

- 47 (1) Administration.

- 1 (2) Auditor.
- 2 (3) Cultural Resources, including the allocation of 6.4% reduction to historic
- 3 sites, maritime museums, and history museums.
- 4 (4) Cultural Resources – Roanoke Island Commission.
- 5 (5) General Assembly.
- 6 (6) Governor.
- 7 (7) Insurance.
- 8 (8) Lieutenant Governor.
- 9 (9) Administrative Hearings.
- 10 (10) Revenue.
- 11 (11) State Board of Elections.
- 12 (12) State Budget and Management.
- 13 (13) State Controller.
- 14 (14) Treasurer.
- 15

16 **PART XXA. DEPARTMENT OF ADMINISTRATION**

17 18 **NC GREEN BUSINESS FUND/FUNDS**

19 **SECTION 20A.1.** Of the funds received by the State under the American Recovery
20 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,
21 Department of Administration, for the 2009-2010 fiscal year, the sum of five million dollars
22 (\$5,000,000) in nonrecurring funds shall be allocated to the North Carolina Green Business
23 Fund in the Department of Commerce.

24 25 **BIOFUELS CENTER OF NORTH CAROLINA**

26 **SECTION 20A.2.** Of the funds received by the State under the American Recovery
27 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,
28 Department of Administration, for the 2009-2010 fiscal year, the sum of three million dollars
29 (\$3,000,000) in nonrecurring funds shall be allocated to the Biofuels Center of North Carolina.
30 These funds shall be used for costs related to implementing the North Carolina Strategic Plan
31 for Biofuels Leadership developed under S.L. 2006-206.

32 33 **COASTAL SOUNDS WIND STUDY**

34 **SECTION 20A.3.** Of the funds received by the State under the American Recovery
35 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,
36 Department of Administration, for the 2009-2010 fiscal year, the sum of three hundred
37 thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North
38 Carolina. These funds shall be used for costs related to implementing the pilot project described
39 in Section 9.14 of this act.

40 41 **PART XXI. DEPARTMENT OF INSURANCE**

42 43 **SET INSURANCE REGULATORY CHARGE**

44 **SECTION 21.1.(a)** The percentage rate to be used in calculating the insurance
45 regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2009 calendar
46 year.

47 **SECTION 21.1.(b)** This section is effective when it becomes law.

48 49 **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

50 51 **STUDY OSBM, OSC, AND TREASURER CONSOLIDATION**

1 **SECTION 22.1.** The Office of State Budget and Management, after reviewing the
2 constitutional duties of the Governor in preparing and executing the budget and the
3 constitutional status of the duties of the office of State Treasurer, shall study the feasibility of
4 consolidating the Office of State Controller, the Office of State Budget and Management, and
5 some of the functions of the State Treasurer, or reallocating functions of those state agencies,
6 all with the goal of achieving economies or improving management.

7 The Office of State Budget and Management, no later than April 1, 2010, shall
8 report to the full chairs of the Senate and House Appropriations Committees and to the Fiscal
9 Research Division its findings and recommendations from the study required by the previous
10 paragraph.

11 12 **PART XXIII. OFFICE OF THE STATE CONTROLLER**

13 14 **OVERPAYMENTS AUDIT**

15 **SECTION 23.1.(a)** During the 2009-2011 biennium, receipts generated by the
16 collection of inadvertent overpayments by State agencies to vendors as a result of pricing
17 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,
18 erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be
19 deposited in the Special Reserve Account 24172.

20 **SECTION 23.1.(b)** For each year of the 2009-2011 biennium, five hundred
21 thousand dollars (\$500,000) of the funds transferred from the Special Reserve Account 24172
22 shall be used by the Office of the State Controller for data processing, debt collection, or
23 e-commerce costs.

24 **SECTION 23.1.(c)** All funds available in the Special Reserve Account 24172 on
25 July 1 of each year of the 2009-2011 biennium are transferred to the General Fund on that date.

26 **SECTION 23.1.(d)** Any unobligated funds in the Special Reserve Account 24172
27 that are realized above the allowance in subsection (b) of this section are subject to
28 appropriation by the General Assembly.

29 **SECTION 23.1.(e)** The State Controller shall report quarterly to the Joint
30 Legislative Commission on Governmental Operations and the Fiscal Research Division on the
31 revenue deposited into the Special Reserve Account 24172 and the disbursement of that
32 revenue.

33 34 **BEACON STAFF TO SUPPORT STATEWIDE ENTERPRISE TRAINING PROGRAM**

35 **SECTION 23.2.** For the 2009-2011 fiscal biennium, the Office of the State
36 Controller shall use three hundred sixty-four thousand four hundred thirty-eight dollars
37 (\$364,438) of existing BEACON funds to continue the following six full-time, time-limited
38 training positions that are effective July 1, 2009, and that support the statewide enterprise
39 training program established by Section 20.1 of S.L. 2008-107:

- 40 (1) Two Staff Development Specialists II (\$112,525).
- 41 (2) One BEACON University Trainer (\$70,928).
- 42 (3) One Technical Support Technician (\$64,708).
- 43 (4) One Administrative Support Specialist (\$45,347).
- 44 (5) One Business and Technology Application Technician (\$70,928).

45 46 **PART XXIV. DEPARTMENT OF THE SECRETARY OF STATE**

47 48 **INCREASE REGISTRATION FEE RENEWAL FOR SECURITIES SALESMEN**

49 **SECTION 24.1.** G.S. 78A-37(b) reads as rewritten:

50 "(b) Every applicant for initial or renewal registration shall pay a filing fee of three
51 hundred dollars (\$300.00) in the case of a dealer and ~~seventy five dollars (\$75.00)~~ one hundred

1 dollars (\$100.00) in the case of a salesman. The Administrator may by rule reduce the
2 registration fee proportionately when the registration will be in effect for less than a full year."
3

4 **CREATE SPECIAL FUND FOR AUCTION RATE SECURITIES INVESTIGATIONS** 5 **COSTS**

6 **SECTION 24.2.(a)** There is established the Auction Rate Securities Investigation
7 Special Fund, which is a special fund created with the unexpended funds from the existing
8 Auction Rate Securities (ARS) fund from fiscal year 2008-2009 for reimbursement of the costs
9 of investigations arising from the Department of the Secretary of State's administration of
10 Chapters 78A, 78C, and 78D of the General Statutes. The Auction Rate Securities Investigation
11 Special Fund shall be used to continue the Department's active participation in the North
12 American Securities Administrators Association (NASAA) ARS Task Force investigation into
13 the marketing of Auction Rate Securities by the regulated community to investors as well as the
14 remedies for harm arising from such marketing. Reimbursements paid by investment banks and
15 firms to the Department as part of the Department's involvement in the NASAA ARS Task
16 Force shall be deposited into the Auction Rate Securities Investigation Special Fund.

17 **SECTION 24.2.(b)** The maximum balance of the Auction Rate Securities
18 Investigation Special Fund shall be limited to three million two hundred thousand dollars
19 (\$3,200,000). If deposits from investment banks and firms paid as reimbursements for
20 investigation costs cause the fund to exceed three million two hundred thousand dollars
21 (\$3,200,000), then the amount exceeding three million two hundred thousand dollars
22 (\$3,200,000) shall immediately be transferred to the General Fund.

23 **SECTION 24.2.(c)** In the event that the Department of the Secretary of State
24 receives other monies as reimbursement for the costs of investigations into activities which are
25 not a part of the NASAA ARS Task Force, these monies shall also be deposited into the
26 Auction Rate Securities Special Fund and shall remain available to the Department for the
27 administration of Chapters 78A, 78C, and 78D of the General Statutes, subject to the
28 limitations on the Auction Rate Securities Investigation Special Fund's maximum balance in
29 subsection (b) of this section.
30

31 **PART XXV. DEPARTMENT OF TRANSPORTATION**

32 **CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND** 33 **APPROPRIATIONS**

34 **SECTION 25.1.(a)** The General Assembly authorizes and certifies anticipated
35 revenues of the Highway Fund as follows:

36	For Fiscal Year 2011-2012	\$1,736.5 million
37	For Fiscal Year 2012-2013	\$1,835.2 million
38	For Fiscal Year 2013-2014	\$1,945.3 million
39	For Fiscal Year 2014-2015	\$2,008.7 million

40 **SECTION 25.1.(b)** The General Assembly authorizes and certifies anticipated
41 revenues of the Highway Trust Fund as follows:

42	For Fiscal Year 2011-2012	\$ 950.4 million
43	For Fiscal Year 2012-2013	\$1,006.9 million
44	For Fiscal Year 2013-2014	\$1,066.4 million
45	For Fiscal Year 2014-2015	\$1,108.3 million

46 **MODIFY GLOBAL TRANSPARK DEBT**

47 **SECTION 25.2.** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144,
48 Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, and Section 27.7 of S.L. 2007-323
49 reads as rewritten:
50
51

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

...

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, ~~2009.~~ 2011. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

...."

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 25.3. Of the funds appropriated in this act to the Department of Transportation:

- (1) Fourteen million dollars (\$14,000,000) shall be allocated in each fiscal year for small construction projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.
- (2) Thirteen million nine hundred fifty thousand dollars (\$13,950,000) in fiscal year 2009-2010 and thirteen million nine hundred fifty thousand dollars (\$13,950,000) in fiscal year 2010-2011 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

USE SECONDARY ROAD IMPROVEMENT FUNDS FOR HIGHWAY MAINTENANCE IN FISCAL YEAR 2009-2010

1 **SECTION 25.4.** Notwithstanding the provisions of G.S. 136-44.2A regarding the
 2 annual allocation of funds from the Highway Fund to the Department of Transportation for
 3 secondary road improvement programs, the funds required to be allocated for the secondary
 4 road improvement programs, established pursuant to G.S. 136-44.7 and G.S. 136-44.8, for
 5 fiscal year 2009-2010, shall remain in the Highway Fund for highway maintenance.

6
 7 **NC TURNPIKE AUTHORITY TRANSFERRED TO THE DEPARTMENT OF**
 8 **TRANSPORTATION**

9 **SECTION 25.5.(a)** G.S. 136-89.182 reads as rewritten:

10 **"§ 136-89.182. North Carolina Turnpike Authority.**

11 ...

12 (b) Administrative Placement. – The Authority shall be located within the Department
 13 of Transportation ~~for administrative purposes but shall exercise all of its powers independently~~
 14 ~~of the Department of Transportation except as otherwise specified in this Article, and shall be~~
 15 subject to and under the direct supervision of the Secretary of Transportation.

16 ...

17 (d) Board of Transportation Members. – ~~No more than two members~~ Members of the
 18 North Carolina Board of Transportation may serve as members of the Authority Board.

19 "

20 **SECTION 25.5.(b)** The transfer of the North Carolina Turnpike Authority to the
 21 Department of Transportation has all the elements of a Type I transfer under G.S. 143A-6.

22
 23 Requested by: Senator

24 **ALLOW THE DEPARTMENT OF TRANSPORTATION TO REQUIRE FACILITIES**
 25 **CONSTRUCTED WITHIN RIGHTS-OF-WAY TO BE CONSTRUCTED FROM**
 26 **PERMEABLE PAVEMENT**

27 **SECTION 25.6.(a)** G.S. 136-18 is amended by adding a new subdivision to read:

28 "(41) The Department shall, prior to the beginning of construction, determine
 29 whether all sidewalks and other facilities primarily intended for the use of
 30 pedestrians and bicycles that are to be constructed within the right-of-way of
 31 a public street or highway that is a part of the State highway system or an
 32 urban highway system must be constructed of permeable pavement.
 33 "Permeable pavement" means paving material that absorbs water or allows
 34 water to infiltrate through the paving material. Permeable pavement
 35 materials include porous concrete, permeable interlocking concrete pavers,
 36 concrete grid pavers, porous asphalt, and any other material with similar
 37 characteristics. Compacted gravel shall not be considered permeable
 38 pavement."

39 **SECTION 25.6.(b)** This act becomes effective October 1, 2009, and applies to
 40 facilities constructed on or after that date.

41
 42 **PART XXVI. SALARIES AND BENEFITS**

43
 44 **GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES**

45 **SECTION 26.1.(a)** For the 2009-2010 and 2010-2011 fiscal years, the salary of the
 46 Governor shall remain the amount set by G.S. 147-11(a).

47 **SECTION 26.1.(b)** The annual salaries for the members of the Council of State,
 48 payable monthly, for the 2009-2010 and 2010-2011 fiscal years are:

50 Council of State	Annual Salary
51 Lieutenant Governor	\$123,198

1	Attorney General	123,198
2	Secretary of State	123,198
3	State Treasurer	123,198
4	State Auditor	123,198
5	Superintendent of Public Instruction	123,198
6	Agriculture Commissioner	123,198
7	Insurance Commissioner	123,198
8	Labor Commissioner	123,198

9

10 **NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES**

11 **SECTION 26.2.** In accordance with G.S. 143B-9, the maximum annual salaries,
 12 payable monthly, for the nonelected heads of the principal State departments for the 2009-2010
 13 and 2010-2011 fiscal years are:

14

15	Nonelected Department Heads	Annual Salary
16	Secretary of Administration	\$120,363
17	Secretary of Correction	120,363
18	Secretary of Crime Control and Public Safety	120,363
19	Secretary of Cultural Resources	120,363
20	Secretary of Commerce	120,363
21	Secretary of Environment and Natural Resources	120,363
22	Secretary of Health and Human Services	120,363
23	Secretary of Juvenile Justice and	
24	Delinquency Prevention	120,363
25	Secretary of Revenue	120,363
26	Secretary of Transportation	120,363

27

28 **CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES**

29 **SECTION 26.3.** The annual salaries, payable monthly, for the 2009-2010 and
 30 2010-2011 fiscal years for the following executive branch officials are:

31

32	Executive Branch Officials	Annual Salary
33	Chairman, Alcoholic Beverage Control Commission	\$109,553
34	State Controller	153,319
35	Commissioner of Motor Vehicles	109,553
36	Commissioner of Banks	123,198
37	State Personnel Director	120,363
38	Chairman, Parole Commission	100,035
39	Members of the Parole Commission	46,178
40	Chairman, Utilities Commission	137,203
41	Members of the Utilities Commission	123,198
42	Executive Director, Agency for	
43	Public Telecommunications	92,356
44	Director, Museum of Art	112,256
45	Executive Director, North Carolina	
46	Agricultural Finance Authority	106,635
47	State Chief Information Officer	153,227

48

49 **JUDICIAL BRANCH OFFICIALS/NO SALARY INCREASES**

50 **SECTION 26.4.(a)** The annual salaries, payable monthly, for specified judicial
 51 branch officials for the 2009-2010 and 2010-2011 fiscal years are:

1		
2	Judicial Branch Officials	Annual Salary
3	Chief Justice, Supreme Court	\$140,932
4	Associate Justice, Supreme Court	137,249
5	Chief Judge, Court of Appeals	135,061
6	Judge, Court of Appeals	131,531
7	Judge, Senior Regular Resident Superior Court	127,957
8	Judge, Superior Court	124,382
9	Chief Judge, District Court	112,946
10	Judge, District Court	109,372
11	District Attorney	119,305
12	Administrative Officer of the Courts	126,738
13	Assistant Administrative Officer of the Courts	115,763
14	Public Defender	119,305
15	Director of Indigent Defense Services	123,022
16		

17 **SECTION 26.4.(b)** The district attorney or public defender of a judicial district,
 18 with the approval of the Administrative Officer of the Courts or the Commission on Indigent
 19 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant
 20 public defenders, respectively, in that district such that the average salaries of assistant district
 21 attorneys or assistant public defenders in that district do not exceed seventy thousand nine
 22 hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or
 23 assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars
 24 (\$37,182). The annual salaries in effect on June 30, 2009, shall remain at the same amount for
 25 the 2009-2010 and 2010-2011 fiscal years.

26 **SECTION 26.4.(c)** The annual salaries in effect on June 30, 2009, for permanent,
 27 full-time employees of the Judicial Department whose salaries are not itemized in this act shall
 28 remain in effect for the 2009-2010 and 2010-2011 fiscal years.

29 **SECTION 26.4.(d)** The annual salaries in effect on June 30, 2009, for permanent,
 30 part-time employees of the Judicial Department whose salaries are not itemized in this act, shall
 31 remain in effect for the 2009-2010 and 2010-2011 fiscal years.

32
 33 **CLERK OF SUPERIOR COURT/NO SALARY INCREASES**

34 **SECTION 26.5.** The annual salaries of the clerks of superior court provided by
 35 G.S. 7A-101(a) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

36
 37 **ASSISTANT AND DEPUTY CLERKS OF COURT/NO SALARY INCREASES**

38 **SECTION 26.6.** The annual salaries of the assistant and deputy clerks of superior
 39 court provided by G.S. 7A-102(c1) shall remain in effect for the 2009-2010 and 2010-2011
 40 fiscal years, and there shall not be a step increase.

41
 42 **MAGISTRATES/ NO SALARY INCREASES**

43 **SECTION 26.7.** The annual salaries of magistrates provided by G.S. 7A-171.1(a)
 44 shall remain in effect for the 2009-2010 and 2010-2011 fiscal years, and there shall not be a
 45 step increase.

46
 47 **GENERAL ASSEMBLY PRINCIPAL CLERKS/NO SALARY INCREASES**

48 **SECTION 26.8.** The annual salaries of the General Assembly principal clerks
 49 provided by G.S. 120-37(c) shall remain in effect for the 2009-2010 and 2010-2011 fiscal
 50 years.

51

SERGEANT-AT-ARMS AND READING CLERKS/NO SALARY INCREASES

SECTION 26.9. The annual salaries of the General Assembly sergeants-at-arms and reading clerks provided by G.S. 120-37(b) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

LEGISLATIVE EMPLOYEES/NO SALARY INCREASES

SECTION 26.10. The Legislative Services Officer shall not increase the salaries of nonelected employees of the General Assembly in effect on June 30, 2009. Except as specifically provided in this section, nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/NO SALARY INCREASES

SECTION 26.11.(a) The annual salaries in effect on June 30, 2009, for faculty, except as otherwise provided by Section 8.1 of this act, and for all permanent, full-time community college institutional personnel supported by State funds, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.11.(b) The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.
- (3) Bachelor's Degree.
- (4) Master's Degree or Education Specialist.
- (5) Doctoral Degree.

SECTION 26.11.(c) For the 2009-2010 and 2010-2011 school years, the minimum salaries for nine-month, full-time curriculum community college faculty shall not be increased and shall remain as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	\$34,819
Bachelor's Degree	\$37,009
Master's Degree or Education Specialist	\$38,952
Doctoral Degree	\$41,753

No full-time faculty member shall earn less than the minimum salary for his or her education level. The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA NO SALARY INCREASES

SECTION 26.12(a) Of funds appropriated to the Faculty Recruiting and Retention Fund under the Office of the President of the University of North Carolina, allocations from the fund shall be made for salary increases at the discretion of the President of the University of North Carolina only for the purpose of recruiting and retaining faculty members as necessary at constituent institutions.

SECTION 26.12.(b) The annual salaries in effect on June 30, 2009, for all employees of The University of North Carolina supported by State funds, and for employees of the North Carolina School of Science and Mathematics shall remain in effect for the 2009-2010 and 2010-2011 fiscal years except for faculty as otherwise provided by the Faculty Recruiting and Retention Fund or the Distinguished Professors Endowment Fund.

MOST STATE EMPLOYEES/NO SALARY INCREASES

SECTION 26.13.(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 remain in effect for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.13.(b) Except as otherwise provided in this act, the salaries in effect on June 30, 2009, for permanent, full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.13.(c) The salaries in effect on June 30, 2009, for all permanent, part-time State employees shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.13.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to maintain salaries in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, for the permanent, full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

ALL STATE-SUPPORTED PERSONNEL/NO SALARY INCREASES

SECTION 26.14.(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, in effect June 30, 2009, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.14.(b) The salary increase provisions of G.S. 20-187.3 are suspended for the 2009-2010 and 2010-2011 fiscal years.

SECTION 26.14.(c) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal years 2009-2010 and 2010-2011 all funds necessary for the salaries authorized by this act, including funds for the employer's retirement and social security contributions.

SECTION 26.14.(d) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

TEACHER SALARY SCHEDULES

SECTION 26.15.(a) 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

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,085	N/A
2	\$3,129	N/A
3	\$3,264	\$3,656
4	\$3,404	\$3,812
5	\$3,538	\$3,963
6	\$3,667	\$4,107
7	\$3,771	\$4,224
8	\$3,819	\$4,277

1	9	\$3,868	\$4,332
2	10	\$3,918	\$4,388
3	11	\$3,967	\$4,443
4	12	\$4,018	\$4,500
5	13	\$4,069	\$4,557
6	14	\$4,122	\$4,617
7	15	\$4,176	\$4,677
8	16	\$4,231	\$4,739
9	17	\$4,286	\$4,800
10	18	\$4,345	\$4,866
11	19	\$4,403	\$4,931
12	20	\$4,461	\$4,996
13	21	\$4,523	\$5,066
14	22	\$4,584	\$5,134
15	23	\$4,650	\$5,208
16	24	\$4,714	\$5,280
17	25	\$4,779	\$5,352
18	26	\$4,845	\$5,426
19	27	\$4,913	\$5,503
20	28	\$4,984	\$5,582
21	29	\$5,055	\$5,662
22	30	\$5,153	\$5,771
23	31+	\$5,255	\$5,886

2009-2010 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
28	0	N/A
29	1	N/A
30	2	N/A
31	3	\$4,021
32	4	\$4,193
33	5	\$4,359
34	6	\$4,518
35	7	\$4,646
36	8	\$4,705
37	9	\$4,766
38	10	\$4,827
39	11	\$4,888
40	12	\$4,950
41	13	\$5,013
42	14	\$5,078
43	15	\$5,145
44	16	\$5,212
45	17	\$5,281
46	18	\$5,354
47	19	\$5,424
48	20	\$5,496
49	21	\$5,572
50	22	\$5,647
51	23	\$5,729

1	24	\$5,185	\$5,807
2	25	\$5,257	\$5,888
3	26	\$5,330	\$5,970
4	27	\$5,404	\$6,052
5	28	\$5,482	\$6,140
6	29	\$5,561	\$6,228
7	30	\$5,668	\$6,348
8	31+	\$5,781	\$6,475

9
10 **SECTION 26.15.(b)** Annual longevity payments for teachers shall be at the rate of
11 one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and
12 twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three
13 and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service,
14 and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The
15 longevity payment shall be paid in a lump sum once a year.

16 **SECTION 26.15.(c)** Certified public schoolteachers with certification based on
17 academic preparation at the six-year degree level shall receive a salary supplement of one
18 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for
19 certified personnel of the public schools who are classified as "M" teachers. Certified public
20 schoolteachers with certification based on academic preparation at the doctoral degree level
21 shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in
22 addition to the compensation provided for certified personnel of the public schools who are
23 classified as "M" teachers.

24 **SECTION 26.15.(d)** The first step of the salary schedule for school psychologists
25 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule
26 established in this section for certified personnel of the public schools who are classified as
27 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate
28 step based on their years of experience. Certified psychologists shall receive longevity
29 payments based on years of State service in the same manner as teachers.

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

36 **SECTION 26.15.(e)** Speech pathologists who are certified as speech pathologists
37 at the master's degree level and audiologists who are certified as audiologists at the master's
38 degree level and who are employed in the public schools as speech and language specialists and
39 audiologists shall be paid on the school psychologist salary schedule.

40 Speech pathologists and audiologists with certification based on academic
41 preparation at the six-year degree level shall receive a salary supplement of one hundred
42 twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech
43 pathologists and audiologists. Speech pathologists and audiologists with certification based on
44 academic preparation at the doctoral degree level shall receive a salary supplement of two
45 hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for
46 speech pathologists and audiologists.

47 **SECTION 26.15.(f)** Certified school nurses who are employed in the public
48 schools as nurses shall be paid on the "M" salary schedule.

49 **SECTION 26.15.(g)** As used in this section, the term "teacher" shall also include
50 instructional support personnel.
51

SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 26.16.(a) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2009-2010 fiscal year, commencing July 1, 2009, is as follows:

2009-2010 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,781	-	-	-	-
5	\$3,931	-	-	-	-
6	\$4,074	-	-	-	-
7	\$4,189	-	-	-	-
8	\$4,243	\$4,243	-	-	-
9	\$4,298	\$4,298	-	-	-
10	\$4,353	\$4,353	\$4,408	-	-
11	\$4,408	\$4,408	\$4,464	-	-
12	\$4,464	\$4,464	\$4,521	\$4,579	-
13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
32	-	\$5,956	\$6,075	\$6,197	\$6,321
33	-	-	\$6,197	\$6,321	\$6,447
34	-	-	\$6,321	\$6,447	\$6,576
35	-	-	-	\$6,576	\$6,708
36	-	-	-	\$6,708	\$6,842
37	-	-	-	-	\$6,979

2009-2010 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	\$4,828	-	-	-
15	\$4,891	-	-	-
16	\$4,956	\$5,025	-	-

1	17	\$5,025	\$5,092	\$5,237	-
2	18	\$5,092	\$5,166	\$5,310	\$5,383
3	19	\$5,166	\$5,237	\$5,383	\$5,458
4	20	\$5,237	\$5,310	\$5,458	\$5,537
5	21	\$5,310	\$5,383	\$5,537	\$5,617
6	22	\$5,383	\$5,458	\$5,617	\$5,725
7	23	\$5,458	\$5,537	\$5,725	\$5,839
8	24	\$5,537	\$5,617	\$5,839	\$5,956
9	25	\$5,617	\$5,725	\$5,956	\$6,075
10	26	\$5,725	\$5,839	\$6,075	\$6,197
11	27	\$5,839	\$5,956	\$6,197	\$6,321
12	28	\$5,956	\$6,075	\$6,321	\$6,447
13	29	\$6,075	\$6,197	\$6,447	\$6,576
14	30	\$6,197	\$6,321	\$6,576	\$6,708
15	31	\$6,321	\$6,447	\$6,708	\$6,842
16	32	\$6,447	\$6,576	\$6,842	\$6,979
17	33	\$6,576	\$6,708	\$6,979	\$7,119
18	34	\$6,708	\$6,842	\$7,119	\$7,261
19	35	\$6,842	\$6,979	\$7,261	\$7,406
20	36	\$6,979	\$7,119	\$7,406	\$7,554
21	37	\$7,119	\$7,261	\$7,554	\$7,705
22	38	\$7,261	\$7,406	\$7,705	\$7,859
23	39	-	\$7,554	\$7,859	\$8,016
24	40	-	\$7,705	\$8,016	\$8,176
25	41	-	-	\$8,176	\$8,340

SECTION 26.16.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

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

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

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

1 **SECTION 26.16.(c)** A principal shall be placed on the step on the salary schedule
 2 that reflects total number of years of experience as a certificated employee of the public schools
 3 and an additional step for every three years of experience as a principal. A principal or assistant
 4 principal shall also continue to receive any additional State-funded percentage increases earned
 5 for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student
 6 performance or maintaining a safe and orderly school.

7 **SECTION 26.16.(d)** Principals and assistant principals with certification based on
 8 academic preparation at the six-year degree level shall be paid a salary supplement of one
 9 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a
 10 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

11 **SECTION 26.16.(e)** Longevity pay for principals and assistant principals shall be
 12 as provided for State employees under the State Personnel Act.

13 **SECTION 26.16.(f)** If a principal is reassigned to a higher job classification
 14 because the principal is transferred to a school within a local school administrative unit with a
 15 larger number of State-allotted teachers, the principal shall be placed on the salary schedule as
 16 if the principal had served the principal's entire career as a principal at the higher job
 17 classification.

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

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

26 **SECTION 26.16.(g)** Participants in an approved full-time master's in school
 27 administration program shall receive up to a 10-month stipend at the beginning salary of an
 28 assistant principal during the internship period of the master's program. For the 2006-2007
 29 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the
 30 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any
 31 fellowship funds received by the intern as a full-time student, including awards of the Principal
 32 Fellows Program. The Principal Fellows Program or the school of education where the intern
 33 participates in a full-time master's in school administration program shall supply the
 34 Department of Public Instruction with certification of eligible full-time interns.

35 **SECTION 26.16.(h)** During the 2009-2010 fiscal year, the placement on the salary
 36 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
 37 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
 38 schedule, whichever is higher.

39 **CENTRAL OFFICE SALARIES**

40 **SECTION 26.17.(a)** The monthly salary ranges that follow apply to assistant
 41 superintendents, associate superintendents, directors/coordinators, supervisors, and finance
 42 officers for the 2009-2010 fiscal year, beginning July 1, 2009.

44	School Administrator I	\$3,309	\$6,207
45	School Administrator II	\$3,508	\$6,583
46	School Administrator III	\$3,724	\$6,984
47	School Administrator IV	\$3,874	\$7,262
48	School Administrator V	\$4,030	\$7,556
49	School Administrator VI	\$4,275	\$8,013
50	School Administrator VII	\$4,447	\$8,336

1 The local board of education shall determine the appropriate category and
 2 placement for each assistant superintendent, associate superintendent, director/coordinator,
 3 supervisor, or finance officer within the salary ranges and within funds appropriated by the
 4 General Assembly for central office administrators and superintendents. The category in which
 5 an employee is placed shall be included in the contract of any employee.

6 **SECTION 26.17.(b)** The monthly salary ranges that follow apply to public school
 7 superintendents for the 2009-2010 fiscal year, beginning July 1, 2009.

8 Superintendent I	\$4,720	\$8,843
9 Superintendent II	\$5,011	\$9,377
10 Superintendent III	\$5,316	\$9,948
11 Superintendent IV	\$5,642	\$10,552
12 Superintendent V	\$5,988	\$11,196

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

17 **SECTION 26.17.(c)** Longevity pay for superintendents, assistant superintendents,
 18 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as
 19 provided for State employees under the State Personnel Act.

20 **SECTION 26.17.(d)** Superintendents, assistant superintendents, associate
 21 superintendents, directors/coordinators, supervisors, and finance officers with certification
 22 based on academic preparation at the six-year degree level shall receive a salary supplement of
 23 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
 24 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,
 25 directors/coordinators, supervisors, and finance officers with certification based on academic
 26 preparation at the doctoral degree level shall receive a salary supplement of two hundred
 27 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this
 28 section.

29 **SECTION 26.17.(e)** The State Board of Education shall not permit local school
 30 administrative units to transfer State funds from other funding categories for salaries for public
 31 school central office administrators.

32 **SECTION 26.17.(f)** The salaries in effect June 30, 2009, for all permanent
 33 full-time personnel paid from the Central Office Allotment, shall remain in effect for the
 34 2009-2010 and 2010-2011 fiscal years.

35 36 **NONCERTIFIED SCHOOL PERSONNEL SALARIES**

37 **SECTION 26.18.(a)** The salaries in effect June 30, 2009, of permanent, full-time
 38 noncertified public school employees whose salaries are supported from the State's General
 39 Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

40 **SECTION 26.18.(b)** The salaries in effect on June 30, 2009, for all permanent
 41 part-time noncertified public school employees whose salaries are supported from the State's
 42 General Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

43 **SECTION 26.18.(c)** The Director of the Budget may allocate out of special
 44 operating funds or from other sources of the employing agency, except tax revenues, sufficient
 45 funds to maintain salaries in accordance with subsection (a) or (b) of this section including
 46 funds for the employer's retirement and social security contributions for the permanent full-time
 47 and part-time employees of the agency, provided the employing agency elects to make
 48 available the necessary funds.

49 50 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY** 51 **SCHEDULES**

1 **SECTION 26.19.** Effective July 1, 2009, any permanent certified personnel
2 employed on July 1, 2009, and paid on the teacher salary schedule with 31+ years of experience
3 shall receive a one-time bonus equivalent to one and eight-tenths percent (1.8%). Effective
4 July 1, 2009, any permanent personnel employed on July 1, 2009, and paid at the top of the
5 principal and assistant principal salary schedule shall receive a one-time bonus equivalent to
6 two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro
7 rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

8 9 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

10 **SECTION 26.20.(a)** Required employer salary-related contributions for employees
11 whose salaries are paid from department, office, institution, or agency receipts shall be paid
12 from the same source as the source of the employee's salary. If an employee's salary is paid in
13 part from the General Fund or Highway Fund and in part from department, office, institution,
14 or agency receipts, required employer salary-related contributions may be paid from the
15 General Fund or Highway Fund only to the extent of the proportionate part paid from the
16 General Fund or Highway Fund in support of the salary of the employee, and the remainder of
17 the employer's requirements shall be paid from the source that supplies the remainder of the
18 employee's salary. The requirements of this section as to source of payment are also applicable
19 to payments on behalf of the employee for hospital-medical benefits, longevity pay,
20 unemployment compensation, accumulated leave, workers' compensation, severance pay,
21 separation allowances, and applicable disability income benefits.

22 Notwithstanding any other provision of law, an employer who hires or has hired a
23 retiree as an employee shall enroll the retiree in the active group and pay the cost for the
24 hospital-medical benefits if that retiree is employed in a position that would require the
25 employer to pay hospital-medical benefits if the individual had not been retired.

26 **SECTION 26.20.(b)** Effective July 1, 2009, the State's employer contribution rates
27 budgeted for retirement and related benefits as percentage of covered salaries for the 2009-2010
28 fiscal year are: (i) eight and sixty-five hundredths percent (8.65%) – Teachers and State
29 Employees; (ii) thirteen and sixty-five hundredths percent (13.65%) – State Law Enforcement
30 Officers; (iii) eleven and seventy-six hundredths percent (11.76%) – University Employees'
31 Optional Retirement System; (iv) eleven and seventy-six hundredths percent (11.76%) –
32 Community College Optional Retirement Program; (v) nineteen and fifty-one hundredths
33 percent (19.51%) – Consolidated Judicial Retirement System; and (vi) four and forty
34 hundredths percent (4.40%) – Legislative Retirement System. Each of the foregoing
35 contribution rates includes four and forty hundredths percent (4.40%) for hospital and medical
36 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
37 Community College Optional Retirement Program, and for the University Employees' Optional
38 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income
39 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
40 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
41 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

42 **SECTION 26.20.(c)** Effective July 1, 2010, the State's employer contribution rates
43 budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011
44 fiscal year are: (i) nine and five hundredths percent (9.05%) – Teachers and State Employees;
45 (ii) fourteen and five hundredths percent (14.05%) – State Law Enforcement Officers; (iii)
46 twelve and sixteen hundredths percent (12.16%) – University Employees' Optional Retirement
47 System; (iv) twelve and sixteen hundredths percent (12.16%) – Community College Optional
48 Retirement Program; (v) nineteen and ninety-one hundredths percent (19.91%) – Consolidated
49 Judicial Retirement System; and (vi) four and eighty hundredths percent (4.80%) – Legislative
50 Retirement System. Each of the foregoing contribution rates includes four and eighty
51 hundredths percent (4.80%) for hospital and medical benefits. The rate for Teachers and State

1 Employees, State Law Enforcement Officers, Community College Optional Retirement
2 Program, and for the University Employees' Optional Retirement Program includes fifty-two
3 hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State
4 Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%)
5 for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent
6 (5%) for Supplemental Retirement Income.
7

8 NATIONAL GUARD PENSION FUND

9 SECTION 26.21. G.S. 127A-40 reads as rewritten:

10 "(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of
11 guard members for the benefits herein provided and shall certify those eligible to the State
12 Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after
13 July 1, 1983, provide the Department of State Treasurer with an annual census population, by
14 age and the number of years of creditable service, for all former members of the National
15 Guard in receipt of a pension as well as for all active members of the National Guard who are
16 not in receipt of a pension and who have seven and more years of creditable service. The
17 Department of Crime Control and Public Safety shall also provide the State Treasurer a census
18 population of all former members of the National Guard who are not in receipt of a pension and
19 who have 15 and more years of creditable service. The Department of State Treasurer shall
20 make pension payments to those persons certified from the North Carolina National Guard
21 Pension Fund, which shall include general fund appropriations made to ~~and transferred from~~
22 ~~the Department of Crime Control and Public Safety.~~ the Department of State Treasurer. The
23 Department of State Treasurer shall have performed an annual actuarial valuation of the fund
24 and shall have the financial responsibility for maintaining the fund on a generally accepted
25 actuarial basis. The Department of Crime Control and Public Safety shall provide the
26 Department of State Treasurer with whatever assistance is required by the State Treasurer in
27 carrying out his financial responsibilities."
28

29 EXTEND PHASED RETIREMENT PROGRAM EXEMPTION

30 SECTION 26.22. Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21
31 of S.L. 2006-66, reads as rewritten:

32 "SECTION 29.28.(f) Subsections (a) and (b) of this section become effective August 1,
33 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to
34 participants in The University of North Carolina Phased Retirement Program until the earlier of
35 ~~June 30, 2010,~~ August 31, 2013, or 12 months after the issuance of final phased retirement
36 regulations by the Internal Revenue Service. The remainder of this section becomes effective
37 June 30, 2005."
38

39 PART XXVII. CAPITAL APPROPRIATIONS.

40 GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

41 SECTION 27.1. The appropriations made by the 2009 General Assembly for
42 capital improvements are for constructing, repairing, or renovating State buildings, utilities, and
43 other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings
44 and land for State government purposes.
45
46

47 CAPITAL APPROPRIATIONS/GENERAL FUND

48 SECTION 27.2. There is appropriated from the General Fund for the 2009-2010
49 fiscal year the following amounts for capital improvements:
50

51 Capital Improvements – General Fund

2009-2010

1		
2	Department of Environment and Natural Resources	
3	Water Resources Development Projects	\$ 17,600,000
4		
5	TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$17,600,000

6
7 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

8 **SECTION 27.3.(a)** The Department of Environment and Natural Resources shall
9 allocate the funds appropriated in this act for water resources development projects to the
10 following projects with costs as indicated:

11		
12	Name of Project	2009-2010
13		
14	(1) Wilmington Harbor Deepening	\$ 1,300,000
15	(2) B. Everett Jordan Lake Water Supply Storage	200,000
16	(3) Carolina Beach Renourishment	738,000
17	(4) Carolina Beach South (Kure Beach) Renourishment	842,000
18	(5) Wrightsville Beach Renourishment	2,059,000
19	(6) Ocean Isle Beach Renourishment	1,211,000
20	(7) Nags Head Beach Renourishment	2,000,000
21	(8) Bald Head Island Beach Renourishment	5,000,000
22	(9) State/Local WRD Grants	1,000,000
23	(10) Emerald Isle Boat Launch	1,000,000
24	(11) Beaufort Harbor Maintenance	50,000
25	(12) Princeville Flood Control	100,000
26	(13) Currituck Sound Environmental Restoration	100,000
27	(14) West Onslow Beach (Topsail Beach, Pender County)	75,000
28	(15) Aquatic Obstruction Removal – Statewide	300,000
29	(16) Aquatic Plant Control (State, L. Gaston & Roanoke Rapids L.)	300,000
30	(17) Mountain to the Sea Trail – Water Based Recreation	250,000
31	(18) Little Fork Creek (Rendezvous State Park)	400,000
32	(19) Planning Assistance to Communities	75,000
33	(20) Concord Stream Restoration (Cabarrus County) (Sec. 206)	350,000
34	(21) Wilson Bay Restoration (Sec. 206), Onslow County	250,000

35
36 **TOTALS** **\$17,600,000**

37
38 **SECTION 27.3.(b)** Where the actual costs are different from the estimated costs
39 under subsection (a) of this section, the Department may adjust the allocations among projects
40 as needed. If any projects funded under subsection (a) of this section are delayed and the
41 budgeted State funds cannot be used during the 2009-2010 fiscal year, or if the projects funded
42 under subsection (a) of this section are accomplished at a lower cost, the Department may use
43 the resulting fund availability to fund any of the following:

- 44 (1) U.S. Army Corps of Engineers project feasibility studies.
- 45 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
46 require State-matching funds in fiscal year 2009-2010.
- 47 (3) State-local water resources development projects.

48 Funds not expended or encumbered for these purposes shall revert to the General Fund at the
49 end of the 2010-2011 fiscal year.

50 **SECTION 27.3.(c)** The Department shall make semiannual reports on the use of
51 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal

1 Research Division, and the Office of State Budget and Management. Each report shall include
2 all of the following:

- 3 (1) All projects listed in this section.
- 4 (2) The estimated cost of each project.
- 5 (3) The date that work on each project began or is expected to begin.
- 6 (4) The date that work on each project was completed or is expected to be
7 completed.
- 8 (5) The actual cost of each project.

9 The semiannual reports also shall show those projects advanced in schedule, those
10 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
11 General Fund.

12 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

13 **SECTION 27.4.(a)** The General Assembly authorizes the following capital
14 projects to be funded with receipts or from other non-General Fund sources:

17 Name of Project	18 Amount of Non-General Fund 19 Funding Authorized for 2009-2010
20 Department of Crime Control and Public Safety	
21 Additions and Renovations to Armories	\$ 9,303,442
22 Camp Butner Cantonment – Phase 1 Design	1,367,000
23 Family Assistance Centers	2,000,000
24	
25 Department of Cultural Resources	
26 Aycock Birthplace Picnic Shelter	86,100
27 Maritime Museum – Floating Dock	130,000
28 Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
29	
30 Department of Environment and Natural Resources	
31 Jennette's Pier Reconstruction	24,446,400
32 Zoo – Elephant Exhibit New Restrooms	300,000
33	
34 Wildlife Resources Commission	
35 Armstrong Hatchery Lower Raceway Replacement	1,725,000
36 Centennial Campus Education Center Exhibit Completion	180,000
37 Chinquapin Equipment Storage Pole Shed	60,000
38 Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
39 Emerald Isle New Boating Access Area	600,000
40 Falls Lake Office Building	550,000
41 Hampstead Land Acquisition	10,000,000
42 Land Acquisitions – State Gamelands	59,135,000
43 Lewelyn Branch New Boating Access Area	150,000
44 Manns Harbor Bridge Marina Acquisition	5,750,000
45 Marion Depot Drainage Repairs	200,000
46 McKinney Lake Hatchery Kettles Replacement	1,700,000
47 Minor Boating Access Area Renovations – Various Locations	150,000
48 New Coldwater Fish Hatchery Construction	7,900,000
49 Ocean Isle Boating Access Area Renovations	150,000
50 Outer Banks Education Center Teaching Facility Repairs	245,000
51 Pechmann Fishing Education Center Pond Restoration	160,000

1	Pechmann Fishing Education Center Storage Building	220,000
2	Pisgah Education Center Gift Shop Renovation and Expansion	200,000
3	Pisgah Education Center Outdoor Exhibit Renovation	450,000
4	Pisgah Education Center Repairs	155,000
5	Pisgah Hatchery Water System Renovation	100,000
6	Rhodes Pond Dam Repairs	500,000
7	Sneads Ferry Land Acquisition	6,500,000
8	Sunset Harbor Land Acquisition	925,000
9	Swan Quarter Land Acquisition	1,700,000
10	Sykes Depot Pond, Office, Storage Construction	350,000
11	Table Rock Hatchery Office and Workshop Replacement	345,000

**TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL
PROJECTS AUTHORIZED**

\$139,382,942

SECTION 27.4.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, 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 the plant conservation program preserves owned by the Department.

SECTION 27.4.(c) Notwithstanding G.S. 143C-8-7, and subject to approval by the Director of the Budget, during the 2009-2011 fiscal biennium, the Aquariums Division of the Department of Environment and Natural Resources may expend funds from the North Carolina Aquariums Fund for capital improvement projects.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 27.5.(a) Of the funds in the Reserve for Repairs and Renovations for the 2009-2010 fiscal year, fifty-four percent (54%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and forty-six percent (46%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 27.5.(b) In addition to any other funds in the Reserve for Repairs and Renovations for the 2009-2010 fiscal year, the following funds are transferred to that Reserve:

- (1) Proceeds of bonds and notes issued pursuant to Section #(f)(2) of this act for the repair and renovation of State facilities and related infrastructure.
- (2) The Energy Efficiency and Conservation Block Grant funds appropriated in this act.

1 **SECTION 27.5.(c)** Notwithstanding G.S. 143C-4-3(b), Energy Efficiency and
2 Conservation Block Grant funds shall be used for repairs and renovations to State and
3 university facilities that will make those facilities more energy efficient. Eligible projects under
4 this subsection include:

- 5 (1) Replacement of incandescent light bulbs with compact fluorescent light
6 bulbs, installation of exit signs that employ light-emitting diode (LED)
7 technology, the installation of occupancy sensors or optical sensors, and
8 other lighting efficiency improvements.
- 9 (2) For windows that need replacement, installation of more energy-efficient
10 windows.
- 11 (3) Insulation improvements when practicable.
- 12 (4) Replacement of inefficient or oversized heating, ventilation, and
13 air-conditioning (HVAC) systems when those systems are subject to
14 replacement and installation of programmable automation systems.
- 15 (5) Installation of aerators in sink faucets that reduce the flow rate and other
16 water system projects that reduce water consumption.
- 17 (6) Any other retrofit or replacement projects that make State or university
18 facilities more energy efficient for which the incremental cost of the project
19 will be equal to or less than the energy or water savings that result over a
20 period of three years after completion.

21 **SECTION 27.5.(d)** Of the funds allocated to the Board of Governors of The
22 University of North Carolina in subsection (a) of this section, a portion shall be used by the
23 Board of Governors for the installation of fire sprinklers in university residence halls. This
24 portion shall be in addition to funds otherwise appropriated in this act for the same purpose.
25 Such funds shall be allocated among the University's constituent institutions by the President of
26 The University of North Carolina, who shall consider the following factors when allocating
27 those funds:

- 28 (1) The safety and well-being of the residents of campus housing programs.
- 29 (2) The current level of housing rents charged to students and how that
30 compares to an institution's public peers and other UNC institutions.
- 31 (3) The level of previous authorizations to constituent institutions for the
32 construction or renovation of residence halls funded from the General Fund,
33 or from bonds or certificates of participation supported by the General Fund,
34 since 1996.
- 35 (4) The financial status of each constituent institution's housing system,
36 including debt capacity, debt coverage ratios, credit rankings, required
37 reserves, the planned use of cash balances for other housing system
38 improvements, and the constituent institution's ability to pay for the
39 installation of fire sprinklers in all residence halls.
- 40 (5) The total cost of each proposed project, including the cost of installing fire
41 sprinklers and the cost of other construction, such as asbestos removal and
42 additional water supply needs.

43 The Board of Governors shall submit progress reports to the Joint Legislative
44 Commission on Governmental Operations. Reports shall include the status of completed,
45 current, and planned projects. Reports shall also include information on the financial status of
46 each constituent institution's housing system, the constituent institution's ability to pay for fire
47 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
48 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

49 **SECTION 27.5.(e)** Of the funds allocated to the Board of Governors of The
50 University of North Carolina in subsection (a) of this section, a portion shall be used by the
51 Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 27.6. 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. Capital improvement projects authorized by the 2009 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

CENTER FOR DESIGN AND WINSTON-SALEM STATE AMENDMENTS

SECTION 27.7.(a) Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276, Section 2.1 of S.L. 2006-146, and Section 27.8 of S.L. 2008-107, is amended by deleting the language:

"11,500,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a Center for Design Innovation in the Piedmont Triad Research Park to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts."
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and substituting the language:

"11,500,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, acquisition of an existing building, construction, or renovation of a Center for Design Innovation to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts."
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SECTION 27.7.(b) G.S. 142-94 reads as rewritten:

"§ 142-94. Procurement of capital facilities.

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of

1 State office buildings pursuant to proposals submitted before the effective date of this Article in
2 response to requests for proposals, to the extent any of those proposals, as they may be
3 supplemented or amended, are approved by the Department of Administration and any of these
4 leases or lease-purchase agreements are approved by the Council of State in accordance with
5 G.S. 143-341(4)d2. With the exception of Article 8 of Chapter 143 of the General Statutes, this
6 section does not apply to any special indebtedness issued pursuant to this Article for the
7 purchase, construction, or operation of capital facilities by Gateway University Research Park,
8 Inc., a joint Millennial Campus in Greensboro. This section does not apply to facilities for the
9 Center for Design Innovation to be operated jointly by Winston-Salem State University and the
10 University of North Carolina School of the Arts, as authorized in Section 1.1 of S.L. 2004-179,
11 as amended."

12 **SECTION 27.7.(c)** Notwithstanding the Joint Conference Committee Report dated
13 July 17, 2004, for S.L. 2004-124, the two million dollars (\$2,000,000) appropriated for
14 Winston-Salem State University shall be used to provide funds to acquire land and renovate
15 space for Winston-Salem State University.

16 17 **DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION**

18 **SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference
19 Committee Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the
20 General Fund shall service the debt for the Green Square Complex parking deck during the
21 2009-2011 fiscal biennium.

22 23 **ADJUSTMENTS TO COPS FOR REDUCED CONSTRUCTION INFLATION**

24 **SECTION 27.9.(a)** Section 27.8(a) of S.L. 2008-107 reads as rewritten:

25 **"SECTION 27.8.(a)** The State, with the prior approval of the State Treasurer and the
26 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
27 to issue or incur special indebtedness in order to provide funds to the State to be used, together
28 with other available funds, to pay the capital facility costs of the projects described in this
29 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or
30 incurrence of special indebtedness:

- 31 (1) In the maximum aggregate principal amount of ~~sixty nine million dollars~~
32 ~~(\$69,000,000)~~sixty-three million eight hundred nineteen thousand five
33 hundred fifty-eight dollars (\$63,819,558) to finance the capital facility costs
34 of completing a School of Dentistry building at East Carolina University and
35 no more than 10 satellite dental clinics across the State. No more than a
36 maximum aggregate amount of twenty-one million dollars (\$21,000,000) of
37 special indebtedness may be issued or incurred under this subdivision prior
38 to July 1, 2009. No more than a maximum aggregate amount of sixty million
39 dollars (\$60,000,000) of special indebtedness may be issued or incurred
40 under this subdivision prior to July 1, 2010.
- 41 (2) In the maximum aggregate principal amount of ~~thirty six million eight~~
42 ~~hundred thousand dollars (\$36,800,000)~~thirty-five million six hundred
43 seventy-eight thousand nine hundred seventy-six dollars (\$35,678,976) to
44 finance the capital facility costs of completing a family medicine building at
45 East Carolina University. No more than a maximum aggregate amount of
46 sixteen million six hundred thousand dollars (\$16,600,000) of special
47 indebtedness may be issued or incurred under this subdivision prior to July
48 1, 2009.
- 49 (3) In the maximum aggregate principal amount of ~~eighteen million dollars~~
50 ~~(\$18,000,000)~~seventeen million eighty-two thousand six hundred fifty-five
51 dollars (\$17,082,655) to finance the capital facility costs of completing a

1 School of Education building at Elizabeth City State University. No more
2 than a maximum aggregate amount of seven million dollars (\$7,000,000) of
3 special indebtedness may be issued or incurred under this subdivision prior
4 to July 1, 2009. No more than a maximum aggregate amount of fifteen
5 million dollars (\$15,000,000) of special indebtedness may be issued or
6 incurred under this subdivision prior to July 1, 2010.

7 (4) In the maximum aggregate principal amount of two million four hundred
8 thirty-eight thousand dollars (\$2,438,000) to finance the capital
9 improvement costs of acquiring land and constructing capital facilities for a
10 horse park in Rockingham County for North Carolina Agricultural and
11 Technical State University.

12 (5) In the maximum aggregate principal amount of ~~twenty million four hundred~~
13 ~~ninety thousand dollars (\$20,490,000)~~ nineteen million four hundred
14 eighty-one thousand seven hundred thirty-nine dollars (\$19,481,739) to
15 finance the capital facility costs of completing a general classroom building
16 at North Carolina Agricultural and Technical State University. No more than
17 a maximum aggregate amount of seven million dollars (\$7,000,000) of
18 special indebtedness may be issued or incurred under this subdivision prior
19 to July 1, 2009.

20 (6) In the maximum aggregate principal amount of ~~twenty-four million five~~
21 ~~hundred thousand dollars (\$24,500,000)~~ twenty-three million one hundred
22 twenty-five thousand two hundred twenty-seven dollars (\$23,125,227) to
23 finance the capital facility costs of completing a nursing building at North
24 Carolina Central University. No more than a maximum aggregate amount of
25 six million dollars (\$6,000,000) of special indebtedness may be issued or
26 incurred under this subdivision prior to July 1, 2009. No more than a
27 maximum aggregate amount of seventeen million dollars (\$17,000,000) of
28 special indebtedness may be issued or incurred under this subdivision prior
29 to July 1, 2010.

30 (7) In the maximum aggregate principal amount of ~~eleven million one hundred~~
31 ~~thousand dollars (\$11,100,000)~~ ten million four hundred ninety-five
32 thousand nine hundred eighty-one dollars (\$10,495,981) to finance the
33 capital facility costs of completing a central storage facility at the North
34 Carolina School of the Arts.

35 (8) In the maximum aggregate principal amount of ~~twelve million nine hundred~~
36 ~~thousand dollars (\$12,900,000)~~ eleven million nine hundred fifty thousand
37 six hundred seventy-nine dollars (\$11,950,679) to finance the capital facility
38 costs of completing a film school production facility at the North Carolina
39 School of the Arts. No special indebtedness may be issued or incurred under
40 this subdivision prior to July 1, 2009. No more than a maximum aggregate
41 amount of two million dollars (\$2,000,000) of special indebtedness may be
42 issued or incurred under this subdivision prior to July 1, 2010. No more than
43 a maximum aggregate amount of seven million nine hundred thousand
44 dollars (\$7,900,000) of special indebtedness may be issued or incurred under
45 this subdivision prior to July 1, 2011.

46 (9) In the maximum aggregate principal amount of ~~one hundred nine million~~
47 ~~one hundred thousand dollars (\$109,100,000)~~ one hundred one million five
48 hundred sixty-eight thousand eight hundred thirty dollars (\$101,568,830) to
49 finance the capital facility costs of completing the Centennial Campus
50 library at North Carolina State University. No more than a maximum
51 aggregate amount of forty-nine million dollars (\$49,000,000) of special

- 1 indebtedness may be issued or incurred under this subdivision prior to July
2 1, 2009. No more than a maximum aggregate amount of sixty-eight million
3 one hundred thousand dollars (\$68,100,000) of special indebtedness may be
4 issued or incurred under this subdivision prior to July 1, 2010. No more than
5 a maximum aggregate amount of ~~one hundred million one hundred thousand~~
6 ~~dollars (\$100,100,000)~~ ninety-two million five hundred sixty-eight thousand
7 eight hundred thirty dollars (\$92,568,830) of special indebtedness may be
8 issued or incurred under this subdivision prior to July 1, 2011.
- 9 (10) In the maximum aggregate principal amount of four million dollars
10 (\$4,000,000) for the capital facility costs of completing the 4-H Campuses at
11 North Carolina State University.
- 12 (11) In the maximum aggregate principal amount of ~~sixty nine million dollars~~
13 ~~(\$69,000,000)~~ sixty-three million eight hundred nineteen thousand five
14 hundred fifty-eight dollars (\$63,819,558) to finance the capital facility costs
15 of completing a School of Dentistry expansion at the University of North
16 Carolina at Chapel Hill. No special indebtedness may be issued or incurred
17 under this subdivision prior to July 1, 2009. No more than a maximum
18 aggregate amount of twenty-five million dollars (\$25,000,000) of special
19 indebtedness may be issued or incurred under this subdivision prior to July
20 1, 2010. No more than a maximum aggregate amount of ~~sixty one million~~
21 ~~dollars (\$61,000,000)~~ fifty-five million eight hundred nineteen thousand five
22 hundred fifty-eight dollars (\$55,819,558) of special indebtedness may be
23 issued or incurred under this subdivision prior to July 1, 2011.
- 24 (12) In the maximum aggregate principal amount of ~~fifty seven million two~~
25 ~~hundred eighteen thousand dollars (\$57,218,000)~~ fifty-three million nine
26 hundred eleven thousand three hundred five dollars (\$53,911,305) to finance
27 the capital facility costs of completing the Energy Production Infrastructure
28 Center at the University of North Carolina at Charlotte. No more than a
29 maximum aggregate amount of ten million dollars (\$10,000,000) of special
30 indebtedness may be issued or incurred under this subdivision prior to July
31 1, 2009. No more than a maximum aggregate amount of thirty-two million
32 two hundred eighteen thousand dollars (\$32,218,000) of special
33 indebtedness may be issued or incurred under this subdivision prior to July
34 1, 2010.
- 35 (13) In the maximum aggregate principal amount of forty-two million six
36 hundred seventy thousand dollars (\$42,670,000) to finance the capital
37 facility costs of completing an academic classroom and office building at the
38 University of North Carolina at Greensboro. No more than a maximum
39 aggregate amount of twenty-one million dollars (\$21,000,000) of special
40 indebtedness may be issued or incurred under this subdivision prior to July
41 1, 2009.
- 42 (14) In the maximum aggregate principal amount of ten million dollars
43 (\$10,000,000) to finance the capital facility costs of installing fire sprinklers
44 in The University of North Carolina System residence halls.
- 45 (15) In the maximum aggregate principal amount of twenty-five million dollars
46 (\$25,000,000) to finance the capital improvement costs of acquiring State
47 land throughout The University of North Carolina System.
- 48 (16) In the maximum aggregate principal amount of thirty-four million dollars
49 (\$34,000,000) to finance the capital improvement costs of purchasing State
50 judicial facilities located at 901 Corporate Drive, Raleigh, NC, and more
51 particularly described as Phase Two, Tract A of Raleigh Corporate Center

- 1 consisting of 17.28 acres and as shown on the map recorded in Map book
2 1987, page 720, and Map book 1990, page 576, of the Wake County
3 Register of Deeds.
- 4 (17) In the maximum aggregate principal amount of ~~forty five million one~~
5 ~~hundred seventy thousand dollars (\$45,170,000)~~forty-two million nine
6 hundred forty-seven thousand three hundred dollars (\$42,947,300) to finance
7 the capital facility costs of completing a health care and mental health
8 facility at the North Carolina Correctional Institute for Women. No more
9 than a maximum aggregate amount of twenty-seven million dollars
10 (\$27,000,000) of special indebtedness may be issued or incurred under this
11 subdivision prior to July 1, 2009.
- 12 (18) In the maximum aggregate principal amount of ~~thirteen million ten thousand~~
13 ~~dollars (\$13,010,000)~~twelve million three hundred sixty-nine thousand eight
14 hundred eleven dollars (\$12,369,811) to finance the capital facility costs of
15 completing a minimum security addition at Scotland Correctional Institution.
16 No more than a maximum aggregate amount of six million dollars
17 (\$6,000,000) of special indebtedness may be issued or incurred under this
18 subdivision prior to July 1, 2009. No more than a maximum aggregate
19 amount of ten million dollars (\$10,000,000) of special indebtedness may be
20 issued or incurred under this subdivision prior to July 1, 2010.
- 21 (19) In the maximum aggregate principal amount of ~~eighteen million nine~~
22 ~~hundred fifty thousand dollars (\$18,950,000)~~eighteen million seventeen
23 thousand five hundred nineteen dollars (\$18,017,519) to finance the capital
24 facility costs of completing a medium security addition at Bertie
25 Correctional Institution. No more than a maximum aggregate amount of
26 seven million dollars (\$7,000,000) of special indebtedness may be issued or
27 incurred under this subdivision prior to July 1, 2009. No more than a
28 maximum aggregate amount of fourteen million dollars (\$14,000,000) of
29 special indebtedness may be issued or incurred under this subdivision prior
30 to July 1, 2010.
- 31 (20) In the maximum aggregate principal amount of ~~thirteen million ten thousand~~
32 ~~dollars (\$13,010,000)~~twelve million three hundred sixty-nine thousand eight
33 hundred eleven dollars (\$12,369,811) to finance the capital facility costs of
34 completing a minimum security addition at Tabor Correctional Institution.
35 No more than a maximum aggregate amount of six million dollars
36 (\$6,000,000) of special indebtedness may be issued or incurred under this
37 subdivision prior to July 1, 2009. No more than a maximum aggregate
38 amount of ten million dollars (\$10,000,000) of special indebtedness may be
39 issued or incurred under this subdivision prior to July 1, 2010.
- 40 (21) In the maximum aggregate principal amount of ~~eighteen million nine~~
41 ~~hundred fifty thousand dollars (\$18,950,000)~~eighteen million seventeen
42 thousand five hundred nineteen dollars (\$18,017,519) to finance the capital
43 facility costs of completing a medium security addition at Lanesboro
44 Correctional Institution. No more than a maximum aggregate amount of
45 seven million dollars (\$7,000,000) of special indebtedness may be issued or
46 incurred under this subdivision prior to July 1, 2009. No more than a
47 maximum aggregate amount of fourteen million dollars (\$14,000,000) of
48 special indebtedness may be issued or incurred under this subdivision prior
49 to July 1, 2010.

- 1 (22) In the maximum aggregate principal amount of two million nine hundred
2 twenty-five thousand dollars (\$2,925,000) to finance the capital facility costs
3 of completing Phase I of the CSS Neuse State Historic Site.
- 4 (23) In the maximum aggregate principal amount of seven million dollars
5 (\$7,000,000) to finance the capital facility costs of completing Port of
6 Morehead City Berth Improvements and Phase I of Port of Wilmington
7 Berth 8 Improvements.
- 8 (24) In the maximum aggregate principal amount of three million seven hundred
9 thousand dollars (\$3,700,000) to finance the capital facility costs of
10 completing a Southeastern North Carolina Agriculture Center Pavilion.
- 11 (25) In the maximum aggregate principal amount of ~~eight million one hundred~~
12 ~~thousand dollars (\$8,100,000)~~seven million six hundred twenty thousand
13 eight hundred twenty-three dollars (\$7,620,823) to finance the capital
14 facility costs of Department of Agriculture and Consumer Services capital
15 improvements. Sales proceeds shall be allocated between the projects in the
16 following manner:

Project	Allocation of Sales Proceeds
Bathroom and truckshed expansion at The Western North Carolina Farmers' Market	\$650,000
Davis Arena renovation and expansion at The Western North Carolina Agricultural Center	\$7,450,000 <u>\$6,970,823</u>

- 27 (26) In the maximum aggregate principal amount of four million three hundred
28 three thousand nine hundred forty-four dollars (\$4,303,944) to finance the
29 capital facility costs of completing an oyster hatchery.
- 30 (27) In the maximum aggregate principal amount of two million seven hundred
31 thousand dollars (\$2,700,000) to finance the capital improvement costs of
32 completing an expansion and renovation to the polar bear exhibit at the
33 North Carolina Zoo.
- 34 (28) In the maximum aggregate principal amount of ~~fifty million dollars~~
35 ~~(\$50,000,000)~~ten million dollars (\$10,000,000) to finance the capital
36 improvement costs of acquiring State park lands and conservation areas for
37 the Land for Tomorrow initiative in the Department of Environment and
38 Natural Resources. Proceeds shall be allocated to support the conservation
39 priorities of the One North Carolina Naturally program."

40 **SECTION 27.9.(b)** Section 29.13(a) of S.L. 2007-323, as amended by Section
41 27.8(d) of S.L. 2008-107, reads as rewritten:

42 "**SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the
43 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
44 to issue or incur special indebtedness in order to provide funds to the State to be used, together
45 with other available funds, to pay the capital facility costs of the projects described in this
46 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or
47 incurrence of special indebtedness:

- 48 (1) In the maximum aggregate principal amount of thirty-four million dollars
49 (\$34,000,000) to finance the capital facility costs of completing a new
50 educational building at Appalachian State University. No more than a
51 maximum aggregate amount of three million dollars (\$3,000,000) of special

- 1 indebtedness may be issued or incurred under this subdivision prior to July
2 1, 2008.
- 3 (2) In the maximum aggregate principal amount of ~~twenty-two million five~~
4 ~~hundred eighty-seven thousand dollars (\$22,587,000)~~ twenty-one million
5 four hundred seventy-five thousand five hundred fifty-one dollars
6 (\$21,475,551) to finance the capital facility costs of completing a new
7 Science and Technology Complex at Fayetteville State University. No more
8 than a maximum aggregate amount of five million dollars (\$5,000,000) of
9 special indebtedness may be issued or incurred under this subdivision prior
10 to July 1, 2008.
- 11 (3) In the maximum aggregate principal amount of ~~twenty-four million nine~~
12 ~~hundred twenty thousand dollars (\$24,920,000)~~ twenty-three million six
13 hundred six thousand seven hundred twenty-three dollars (\$23,606,723) to
14 finance the capital facility costs of completing a new library at the North
15 Carolina School of the Arts. No more than a maximum aggregate amount of
16 one million seven hundred seventy-five thousand six hundred dollars
17 (\$1,775,600) of special indebtedness may be issued or incurred under this
18 subdivision prior to July 1, 2008. No more than a maximum aggregate
19 amount of fourteen million three hundred seventy-three thousand six
20 hundred dollars (\$14,373,600) of special indebtedness may be issued or
21 incurred under this subdivision prior to July 1, 2009.
- 22 (4) In the maximum aggregate principal amount of thirty-eight million dollars
23 (\$38,000,000) to finance the capital facility costs of completing the Randall
24 B. Terry Companion Animal Hospital at North Carolina State University. No
25 more than a maximum aggregate amount of twenty-eight million five
26 hundred thousand dollars (\$28,500,000) of special indebtedness may be
27 issued or incurred under this subdivision prior to July 1, 2008.
- 28 (5) In the maximum aggregate principal amount of ~~thirty-four million dollars~~
29 ~~(\$34,000,000)~~ thirty-two million three hundred twenty-six thousand nine
30 hundred forty-seven dollars (\$32,326,947) to finance the capital facility
31 costs of completing an addition to Engineering Building III in the School of
32 Engineering at North Carolina State University. No more than a maximum
33 aggregate amount of eight million five hundred thousand dollars
34 (\$8,500,000) of special indebtedness may be issued or incurred under this
35 subdivision prior to July 1, 2008. No more than a maximum aggregate
36 amount of twenty-five million five hundred thousand dollars (\$25,500,000)
37 of special indebtedness may be issued or incurred under this subdivision
38 prior to July 1, 2009.
- 39 (6) In the maximum aggregate principal amount of eight million six hundred
40 eighty-seven thousand dollars (\$8,687,000) to finance the capital facility
41 costs of renovating Rhoades Hall at the University of North Carolina at
42 Asheville.
- 43 (7) In the maximum aggregate principal amount of one hundred nineteen million
44 six hundred eight thousand two hundred twenty-five dollars (\$119,608,225)
45 to finance the capital facility costs of a Genomics Science Building at the
46 University of North Carolina at Chapel Hill. No more than a maximum
47 aggregate amount of thirty-one million dollars (\$31,000,000) of special
48 indebtedness may be issued or incurred under this subdivision prior to July
49 1, 2008. No more than a maximum aggregate amount of eighty-six million
50 dollars (\$86,000,000) of special indebtedness may be issued or incurred
51 under this subdivision prior to July 1, 2009.

- 1 (8) In the maximum aggregate principal amount of nineteen million dollars
2 (\$19,000,000) to finance the capital facility costs of completing a Nursing
3 and Allied Health Building at the University of North Carolina at Pembroke.
4 No more than a maximum aggregate amount of five million dollars
5 (\$5,000,000) of special indebtedness may be issued or incurred under this
6 subdivision prior to July 1, 2008.
- 7 (9) In the maximum aggregate principal amount of thirty-four million five
8 hundred twenty-five thousand dollars (\$34,525,000) to finance the capital
9 facility costs of completing a new teaching laboratory at the University of
10 North Carolina at Wilmington. No more than a maximum aggregate amount
11 of two million five hundred thousand dollars (\$2,500,000) of special
12 indebtedness may be issued or incurred under this subdivision prior to July
13 1, 2008. No more than a maximum aggregate amount of eight million six
14 hundred thirty-one thousand two hundred fifty dollars (\$8,631,250) of
15 special indebtedness may be issued or incurred under this subdivision prior
16 to July 1, 2009.
- 17 (10) In the maximum aggregate principal amount of ~~forty one million six~~
18 ~~hundred five thousand dollars (\$41,605,000)~~thirty-eight million eight
19 hundred sixty-two thousand nine hundred sixty dollars (\$38,862,960) to
20 finance the capital facility costs of completing a new Health and
21 Gerontological Building at Western Carolina University. No more than a
22 maximum aggregate amount of eighteen million eight hundred two thousand
23 five hundred dollars (\$18,802,500) of special indebtedness may be issued or
24 incurred under this subdivision prior to July 1, 2009.
- 25 (11) In the maximum aggregate principal amount of twenty-eight million five
26 hundred seven thousand dollars (\$28,507,000) to finance the capital facility
27 costs of completing a new student activities center at Winston-Salem State
28 University. No more than a maximum aggregate amount of two million
29 dollars (\$2,000,000) of special indebtedness may be issued or incurred under
30 this subdivision prior to July 1, 2008. No more than a maximum aggregate
31 amount of fourteen million seven hundred ninety-nine thousand dollars
32 (\$14,799,000) of special indebtedness may be issued or incurred under this
33 subdivision prior to July 1, 2009.
- 34 (12) In the maximum aggregate principal amount of ~~fifty three million dollars~~
35 ~~(\$53,000,000)~~fifty million three hundred ninety two thousand six dollars
36 (\$50,392,006) to finance the capital facility costs of completing a
37 Nanoscience Building to be used jointly by the University of North Carolina
38 at Greensboro and North Carolina Agricultural and Technical State
39 University. No more than a maximum aggregate amount of twenty-five
40 million dollars (\$25,000,000) of special indebtedness may be issued or
41 incurred under this subdivision prior to July 1, 2009.
- 42 (13) In the maximum aggregate principal amount of thirty-two million five
43 hundred thousand dollars (\$32,500,000) to finance the capital facility costs
44 for completing the Coastal Studies Institute. No more than a maximum
45 aggregate amount of eight million dollars (\$8,000,000) of special
46 indebtedness may be issued or incurred under this subdivision prior to July
47 1, 2008. No more than a maximum aggregate amount of twenty-three
48 million dollars (\$23,000,000) of special indebtedness may be issued or
49 incurred under this subdivision prior to July 1, 2009.
- 50 (14) In the maximum aggregate principal amount of nineteen million eight
51 hundred sixteen thousand five hundred dollars (\$19,816,500) to finance the

1 capital facility costs of a medium security facility at the Scotland
2 Correctional Institution. No more than a maximum aggregate amount of five
3 million dollars (\$5,000,000) of special indebtedness may be issued or
4 incurred under this subdivision prior to July 1, 2008.

5 (15) In the maximum aggregate principal amount of thirteen million one hundred
6 ninety-one thousand three hundred dollars (\$13,191,300) to finance the
7 capital facility costs of a minimum security facility at the Alexander
8 Correctional Institution. No more than a maximum aggregate amount of six
9 million five hundred ninety-five thousand six hundred fifty dollars
10 (\$6,595,650) of special indebtedness may be issued or incurred under this
11 subdivision prior to July 1, 2008.

12 (16) In the maximum aggregate principal amount of thirty-five million dollars
13 (\$35,000,000) to finance the capital facility costs of a new education and
14 visitors center at Tryon Palace Historic Sites and Gardens. No more than a
15 maximum aggregate amount of five million dollars (\$5,000,000) of special
16 indebtedness may be issued or incurred under this subdivision prior to July
17 1, 2008. No more than a maximum aggregate amount of twenty-five million
18 dollars (\$25,000,000) of special indebtedness may be issued or incurred
19 under this subdivision prior to July 1, 2009."

20 **SECTION 27.9.(c)** Section 23.12 of S.L. 2006-66, as amended by Section 27.8(c)
21 of S.L. 2008-107, reads as rewritten:

22 "**SPECIAL INDEBTEDNESS PROJECTS**

23 **SECTION 23.12.(a)** In accordance with G.S. 142-83, this subsection authorizes the
24 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
25 forty-five million one hundred thirty dollars (\$45,130,000) to finance the costs of constructing
26 new buildings and pavilions and renovating existing buildings at the North Carolina Museum
27 of Art. The State, with the prior approval of the State Treasurer and the Council of State, as
28 provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur
29 special indebtedness in order to provide funds to the State to be used, together with other
30 available funds, to pay the costs of constructing and renovating the project described in this
31 subsection.

32 **SECTION 23.12.(b)** In accordance with G.S. 142-83, this subsection authorizes the
33 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
34 twenty million dollars (\$20,000,000) to finance the capital facility costs of completing the
35 Central Regional Psychiatric Hospital for the Department of Health and Human Services. The
36 State, with the prior approval of the State Treasurer and the Council of State, as provided in
37 Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special
38 indebtedness in order to provide funds to the State to be used, together with other available
39 funds, to pay the capital facility costs of the project described in this subsection.

40 **SECTION 23.12.(c)** In accordance with G.S. 142-83, this subsection authorizes the
41 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
42 ~~twenty four million eight hundred forty one thousand three hundred dollars (\$24,841,300)~~
43 twenty-four million one hundred sixteen thousand four hundred thirty-three dollars
44 (\$24,116,433) to finance the capital facility costs of a new Secondary State Data Center. The
45 State, with the prior approval of the State Treasurer and the Council of State, as provided in
46 Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special
47 indebtedness in order to provide funds to the State to be used, together with other available
48 funds, to pay the capital facility costs of the project described in this subsection.

49 **SECTION 23.12.(d)** In accordance with G.S. 142-83, this subsection authorizes the
50 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
51 forty-five million eight hundred twenty-seven thousand four hundred dollars (\$45,827,400) to

1 finance the capital facility costs of a new Center City Classroom Building at the University of
2 North Carolina – Charlotte. The State, with the prior approval of the State Treasurer and the
3 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
4 to issue or incur special indebtedness in order to provide funds to the State to be used, together
5 with other available funds, to pay the capital facility costs of the project described in this
6 subsection.

7 **SECTION 23.12.(e)** In accordance with G.S. 142-83, this subsection authorizes the
8 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
9 one hundred one million dollars (\$101,000,000) to finance the capital facility costs of the
10 Department of Health and Human Services Public Health Laboratory and Office of Chief
11 Medical Examiner. The State, with the prior approval of the State Treasurer and the Council of
12 State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or
13 incur special indebtedness in order to provide funds to the State to be used, together with other
14 available funds, to pay the capital facility costs of the project described in this subsection. No
15 more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000) of
16 special indebtedness may be issued or incurred under this subsection prior to July 1, 2007.

17 **SECTION 23.12.(f)** In accordance with G.S. 142-83, this subsection authorizes the
18 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
19 ~~one hundred forty five million five hundred thousand dollars (\$145,500,000)~~ one hundred forty
20 million four hundred seventy eight thousand seventy dollars (\$140,478,070) to finance the
21 capital facility costs of the Eastern Regional Psychiatric Hospital for the Department of Health
22 and Human Services. The State, with the prior approval of the State Treasurer and the Council
23 of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue
24 or incur special indebtedness in order to provide funds to the State to be used, together with
25 other available funds, to pay the capital facility costs of the project described in this subsection.
26 No more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000)
27 of special indebtedness may be issued or incurred under this subsection prior to July 1, 2007.
28 No more than a maximum aggregate principal amount of one hundred million dollars
29 (\$100,000,000) of special indebtedness may be issued or incurred under this subsection prior to
30 July 1, 2008.

31 **SECTION 23.12.(g)** In accordance with G.S. 142-83, this subsection authorizes the
32 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
33 one hundred thirty-two million two hundred thousand dollars (\$132,200,000) to finance the
34 capital facility costs of the Regional Medical Center and Mental Health Center of the
35 Department of Correction. The State, with the prior approval of the State Treasurer and the
36 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized
37 to issue or incur special indebtedness in order to provide funds to the State to be used, together
38 with other available funds, to pay the capital facility costs of the project described in this
39 subsection. No more than a maximum aggregate principal amount of eight million two hundred
40 thousand dollars (\$8,200,000) of special indebtedness may be issued or incurred under this
41 subsection prior to July 1, 2007. No more than a maximum aggregate principal amount of
42 fifty-eight million two hundred thousand dollars (\$58,200,000) of special indebtedness may be
43 issued or incurred under this subsection prior to July 1, 2008. No more than a maximum
44 aggregate principal amount of ninety-eight million two hundred thousand dollars (\$98,200,000)
45 of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

46 **SECTION 23.12.(h)** In accordance with G.S. 142-83, this subsection authorizes the
47 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of
48 ~~one hundred sixty two million eight hundred thousand dollars (\$162,800,000)~~ one hundred
49 fifty-seven million one hundred eighty thousand nine hundred sixty dollars (\$157,180,960) to
50 finance the capital facility costs of the Western Regional Psychiatric Hospital for the
51 Department of Health and Human Services. The State, with the prior approval of the State

1 Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General
2 Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the
3 State to be used, together with other available funds, to pay the capital facility costs of the
4 project described in this subsection. No special indebtedness may be issued or incurred under
5 this subsection prior to July 1, 2008. No more than a maximum aggregate principal amount of
6 twenty million dollars (\$20,000,000) of special indebtedness may be issued or incurred under
7 this subsection prior to July 1, 2009.

8 **SECTION 23.12.(i)** This section is effective when it becomes law."

9 **SECTION 27.9.(d)** Section 1.2 of S.L. 2004-179, as amended by Section 1 of S.L.
10 2006-231, reads as rewritten:

11 "**SECTION 1.2.** In accordance with G.S. 142-83, this section authorizes the issuance or
12 incurrence of special indebtedness in the maximum aggregate principal amount of ~~forty-two~~
13 ~~million dollars (\$42,000,000)~~ thirty-five million two hundred thousand dollars (\$35,200,000) to
14 finance the costs of constructing up to five youth development centers totaling up to 224 beds
15 to be operated by the Department of Juvenile Justice and Delinquency Prevention and to be
16 located as determined by that Department. The State, with the prior approval of the State
17 Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General
18 Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the
19 State to be used, together with other available funds, to pay the cost of constructing the projects
20 described by this section. Of the special indebtedness authorized by this section, no more than
21 thirteen million dollars (\$13,000,000) may be issued or incurred before July 1, 2005."

22 **SECTION 27.9.(e)** Notwithstanding anything in Section 47.1 of S.L. 2003-284 to
23 the contrary, the maximum amount of special indebtedness authorized by that section for the
24 capital facilities cost of Columbus County Correctional Institution is one hundred one million
25 fifty-six thousand four hundred ninety dollars (\$101,056,490).

26 **TWO-THIRDS BONDS ACT OF 2009**

27 **SECTION 27.10.(a)** Short Title. – This section may be cited as the "Two-Thirds
28 Bonds Act of 2009."

29 **SECTION 27.10.(b)** Findings and Determinations. – It is the intent and purpose of
30 the General Assembly by this section to provide for the issuance of general obligation bonds or
31 notes of the State in order to provide funds for the cost of State capital facilities and for the cost
32 of repairs and renovations of State capital facilities and related infrastructure.

33 **SECTION 27.10.(c)** Definitions. – The following definitions apply in this section
34 unless the context otherwise requires:

35 (1) Bonds. – Bonds issued under this section.

36 (2) Cost. – The term includes all of the following:

- 37 a. The cost of constructing, reconstructing, renovating, repairing,
38 enlarging, acquiring, and improving State capital facilities, including
39 the acquisition of land, rights-of-way, easements, franchises,
40 equipment, machinery, furnishings, and other interests in real or
41 personal property acquired or used in connection with a State capital
42 facility.
- 43 b. The cost of engineering, architectural, and other consulting services
44 as may be required.
- 45 c. Administrative expenses and charges.
- 46 d. The cost of providing personnel to ensure effective project
47 management.
- 48 e. The cost of bond insurance, investment contracts, credit enhancement
49 and liquidity facilities, interest-rate swap agreements or other
50 derivative products, financial and legal consultants, and related costs
51

- 1 of bond and note issuance, to the extent and as determined by the
2 State Treasurer.
- 3 f. Finance charges, reserves for debt service, and other types of
4 reserves required pursuant to the terms of any bond or note or related
5 documents, interest before and during construction or acquisition of a
6 State capital facility and, if considered advisable by the State
7 Treasurer, for a period not exceeding two years after the estimated
8 date of completion of construction or acquisition.
- 9 g. The cost of bond insurance, investment contracts, credit enhancement
10 facilities and liquidity facilities, interest-rate swap agreements or
11 other derivative products, financial and legal consultants, and related
12 costs of the incurrence or issuance of any bond or note.
- 13 h. The cost of reimbursing the State for any payments made for any cost
14 described in this subdivision.
- 15 i. Any other costs and expenses necessary or incidental to the purposes
16 of this section.
- 17 (3) Credit facility. – An agreement entered into by the State Treasurer on behalf
18 of the State with a bank, savings and loan association or other banking
19 institution, an insurance company, reinsurance company, surety company or
20 other insurance institution, a corporation, investment banking firm or other
21 investment institution, or any financial institution or other similar provider
22 of a credit facility, which provider may be located within or without the
23 United States, such agreement providing for prompt payment of all or any
24 part of the principal or purchase price (whether at maturity, presentment or
25 tender for purchase, redemption or acceleration), redemption premium, if
26 any, and interest on any bonds or notes payable on demand or tender by the
27 owner, in consideration of the State agreeing to repay the provider of the
28 credit facility in accordance with the terms and provisions of such
29 agreement.
- 30 (4) Notes. – Notes issued under this section.
- 31 (5) Par formula. – A provision or formula adopted by the State to provide for the
32 adjustment, from time to time, of the interest rate or rates borne by any
33 bonds or notes, including:
- 34 a. A provision providing for such adjustment so that the purchase price
35 of such bonds or notes in the open market would be as close to par as
36 possible.
- 37 b. A provision providing for such adjustment based upon a percentage
38 or percentages of a prime rate or base rate, which percentage or
39 percentages may vary or be applied for different periods of time.
- 40 c. Such other provision as the State Treasurer may determine to be
41 consistent with this act and will not materially and adversely affect
42 the financial position of the State and the marketing of bonds or notes
43 at a reasonable interest cost to the State.
- 44 (6) State. – The State of North Carolina, including any State agency.
- 45 (7) State agency. – Any agency, institution, board, commission, bureau, council,
46 department, division, officer, or employee of the State. The term does not
47 include counties, municipal corporations, political subdivisions, local boards
48 of education, or other local public bodies.

49 **SECTION 27.10.(d)** Authorization of Bonds and Notes. – The State Treasurer is
50 authorized, by and with the consent of the Council of State, to issue and sell at one time or from
51 time to time general obligation bonds of the State to be designated "State of North Carolina

1 General Obligation Bonds," with any additional designations as may be determined, or notes of
2 the State, to provide funds, with any other available funds, for the purposes authorized by this
3 section. The aggregate principal amount of indebtedness authorized by this section for each
4 fiscal year may not exceed the lesser of the amount authorized by this subsection for that fiscal
5 year or two-thirds of the amount by which the State's outstanding indebtedness was reduced
6 during the biennium ended June 30th of the preceding fiscal year. If the maximum principal
7 amount of bonds and notes authorized for a fiscal year is in excess of two-thirds of the amount
8 by which the State's outstanding indebtedness shall have been reduced, then the maximum
9 amount of bonds and notes authorized in this section for that fiscal year is reduced by such
10 excess.

11 (1) In the maximum aggregate principal amount of one hundred six million six
12 hundred ten thousand dollars (\$106,610,000) for fiscal year 2009-2010.

13 (2) In the maximum aggregate principal amount of one hundred million dollars
14 (\$100,000,000) for fiscal year 2010-2011.

15 (3) In the maximum aggregate principal amount of fifty million dollars
16 (\$50,000,000) for fiscal year 2011-2012.

17 (4) In the maximum aggregate principal amount of fifty million dollars
18 (\$50,000,000) for fiscal year 2012-2013.

19 **SECTION 27.10.(e)** Uses of Bond and Note Proceeds. – The proceeds of bonds
20 and notes shall be used for financing the cost of State capital facilities and for repairing and
21 renovating State capital facilities as provided in this section. Any additional moneys which
22 may be received by grant from the United States of America or any agency or department
23 thereof or from any other source to aid in financing the cost of any State capital facilities
24 authorized by this section may be placed by the State Treasurer in a separate fund or funds and
25 shall be disbursed, to the extent permitted by the terms of the grant, without regard to any
26 limitations imposed by this section.

27 The proceeds of bonds and notes may be used with any other moneys made
28 available by the General Assembly for the cost of State capital facilities, including the proceeds
29 of any other State bond issues, whether heretofore made available or which may be made
30 available at the session of the General Assembly at which this section is ratified or any
31 subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under
32 the direction and supervision of the Director of the Budget. The funds provided by this section
33 shall be disbursed for the purposes provided in this section upon warrants drawn on the State
34 Treasurer by the State Controller, which warrants shall not be drawn until requisition has been
35 approved by the Director of the Budget and which requisition shall be approved only after full
36 compliance with the State Budget Act, Chapter 143C of the General Statutes.

37 The Office of State Budget and Management and the Board of Governors of The
38 University of North Carolina shall provide semiannual reports to the Joint Legislative
39 Oversight Committee on Capital Improvements, the Chairs of the Senate and House of
40 Representatives Appropriation Committees, and the Fiscal Research Division on the
41 expenditure of moneys authorized by this section. The reports shall continue until the
42 completion of the projects provided for in this section.

43 **SECTION 27.10.(f)** Allocation of Proceeds. – The proceeds of bonds and notes
44 shall be allocated and expended as provided in this subsection:

45 (1) A maximum aggregate principal amount of two hundred forty million dollars
46 (\$240,000,000) to finance the capital facility costs of the new Biomedical
47 Research Imaging Center at the University of North Carolina at Chapel Hill.
48 No more than a maximum aggregate principal amount of seventy-four
49 million dollars (\$74,000,000) may be issued or incurred under this
50 subdivision prior to July 1, 2010. No more than a maximum aggregate
51 amount of one hundred seventy-four million dollars (\$174,000,000) may be

1 issued or incurred prior to July 1, 2011. No more than a maximum aggregate
2 amount of two hundred twenty-four million dollars (\$224,000,000) may be
3 issued or incurred prior to July 1, 2012. The projected allocation for this
4 capital facility may be increased to reflect the availability of other funds,
5 including contingency funds, income earned on the investment of bond and
6 note proceeds, and the proceeds of any grants.

- 7 (2) A maximum aggregate principal amount of sixty-six million six hundred ten
8 thousand dollars (\$66,610,000) to be used only in accordance with this
9 subdivision for the repair and renovation of State facilities and related
10 infrastructure. No more than a maximum aggregate amount of thirty-two
11 million six hundred ten thousand dollars (\$32,610,000) may be issued or
12 incurred prior to July 1, 2012.

13 **SECTION 27.10.(g)** Issuance of Bonds and Notes. –

- 14 (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be
15 serial or term bonds or notes, or any combination thereof, may mature in
16 such amounts and at such time or times, not exceeding 40 years from their
17 date or dates, may be payable at such place or places, either within or
18 without the United States of America, in such coin or currency of the United
19 States of America as at the time of payment is legal tender for payment of
20 public and private debts, may bear interest at such rate or rates, which may
21 vary from time to time, and may be made redeemable before maturity, at the
22 option of the State or otherwise as may be provided by the State, at such
23 price or prices, including a price less than or greater than the face amount of
24 the bonds or notes, and under such terms and conditions, all as may be
25 determined by the State Treasurer, by and with the consent of the Council of
26 State.

- 27 (2) Signatures; form and denomination; registration. – Bonds or notes may be
28 issued in certificated or uncertificated form. If issued in certificated form,
29 bonds or notes shall be signed on behalf of the State by the Governor or shall
30 bear the Governor's facsimile signature, shall be signed by the State
31 Treasurer or shall bear the State Treasurer's facsimile signature, and shall
32 bear the great seal of the State, or a facsimile of the seal shall be impressed
33 or imprinted thereon. If bonds or notes bear the facsimile signatures of the
34 Governor and the State Treasurer, the bonds or notes shall also bear a
35 manual signature which may be that of a bond registrar, trustee, paying
36 agent, or designated assistant of the State Treasurer. Should any officer
37 whose signature or facsimile signature appears on bonds or notes cease to be
38 such officer before the delivery of the bonds or notes, the signature or
39 facsimile signature shall nevertheless have the same validity for all purposes
40 as if the officer had remained in office until delivery. Bonds or notes may
41 bear the facsimile signatures of persons who at the actual time of the
42 execution of the bonds or notes shall be the proper officers to sign any bond
43 or note, although at the date of the bond or note such persons may not have
44 been such officers. The form and denomination of bonds or notes, including
45 the provisions with respect to registration of the bonds or notes and any
46 system for their registration, shall be as the State Treasurer may determine in
47 conformity with this section.

- 48 (3) Manner of sale; expenses. – Subject to the approval by the Council of State
49 as to the manner in which bonds or notes shall be offered for sale, whether at
50 public or private sale, whether within or without the United States, and
51 whether by publishing notices in certain newspapers and financial journals,

1 mailing notices, inviting bids by correspondence, negotiating contracts of
2 purchase, or otherwise, the State Treasurer is authorized to sell bonds or
3 notes at one time or from time to time at any rates of interest, which may
4 vary from time to time, and at any prices, including a price less than or
5 greater than the face amount of the bonds or notes, as the State Treasurer
6 may determine. All expenses incurred in the preparation, sale, and issuance
7 of bonds or notes shall be paid by the State Treasurer from the proceeds of
8 bonds or notes or other available moneys.

9 (4) Notes; repayment. –

10 a. By and with the consent of the Council of State, the State Treasurer
11 is hereby authorized to borrow money and to execute and issue notes
12 of the State for the same, but only in the following circumstances and
13 under the following conditions:

- 14 1. For anticipating the sale of bonds, the issuance of which the
15 Council of State has approved, if the State Treasurer
16 considers it advisable to postpone the issuance of the bonds;
- 17 2. For the payment of interest on or any installment of principal
18 of any bonds then outstanding, if there are not sufficient
19 funds in the State treasury with which to pay the interest or
20 installment of principal as they respectively become due;
- 21 3. For the renewal of any loan evidenced by notes authorized in
22 this section;
- 23 4. For the purposes authorized in this section; and
- 24 5. For refunding bonds or notes as authorized in this section.

25 b. Funds derived from the sale of bonds or notes may be used in the
26 payment of any bond anticipation notes issued under this section.
27 Funds provided by the General Assembly for the payment of interest
28 on or principal of bonds shall be used in paying the interest on or
29 principal of any notes and any renewals thereof, the proceeds of
30 which shall have been used in paying interest on or principal of the
31 bonds.

32 (5) Refunding bonds and notes. – By and with the consent of the Council of
33 State, the State Treasurer is authorized to issue and sell refunding bonds and
34 notes pursuant to the provisions of the State Refunding Bond Act for the
35 purpose of refunding bonds or notes issued pursuant to this section. The
36 refunding bonds and notes may be combined with any other issues of State
37 bonds and notes similarly secured. Refunding bonds or notes may be issued
38 at any time prior to the final maturity of the debt obligation to be refunded.
39 The proceeds from the sale of any refunding bonds or notes shall be applied
40 to the immediate payment and retirement of the bonds or notes being
41 refunded or, if not required for the immediate payment of the bonds or notes
42 being refunded, the proceeds shall be deposited in trust to provide for the
43 payment and retirement of the bonds or notes being refunded and to pay any
44 expenses incurred in connection with the refunding. Money in a trust fund
45 may be invested in (i) direct obligations of the United States government, (ii)
46 obligations the principal of and interest on which are guaranteed by the
47 United States government, (iii) obligations of any agency or instrumentality
48 of the United States government if the timely payment of principal and
49 interest on the obligations is unconditionally guaranteed by the United States
50 government, or (iv) certificates of deposit issued by a bank or trust company
51 located in the State if the certificates are secured by a pledge of any of the

1 obligations described in (i), (ii), or (iii) above having an aggregate market
2 value, exclusive of accrued interest, equal at least to the principal amount of
3 the certificates so secured. This section does not limit the duration of any
4 deposit in trust for the retirement of bonds or notes being refunded but that
5 have not matured and are not presently redeemable, or if presently
6 redeemable, have not been called for redemption.

7 (6) Tax exemption. – Bonds and notes shall at all times be free from taxation by
8 the State or any political subdivision or any of their agencies, excepting
9 estate, inheritance or gift taxes, income taxes on the gain from the transfer of
10 bonds or notes, and franchise taxes. The interest on bonds or notes is not
11 subject to taxation as income.

12 (7) Investment eligibility. – Bonds and notes are securities in which all of the
13 following may invest, including capital in their control or belonging to them:
14 public officers, agencies, and public bodies of the State and its political
15 subdivisions, all insurance companies, trust companies, investment
16 companies, banks, savings banks, savings and loan associations, credit
17 unions, pension or retirement funds, other financial institutions engaged in
18 business in the State, executors, administrators, trustees, and other
19 fiduciaries. Bonds and notes are hereby made securities which may properly
20 and legally be deposited with and received by any officer or agency of the
21 State or political subdivision of the State for any purpose for which the
22 deposit of bonds, notes, or obligations of the State or any political
23 subdivision is now or may hereafter be authorized by law.

24 (8) Faith and credit. – The faith and credit and taxing power of the State are
25 hereby pledged for the payment of the principal of and the interest on bonds
26 and notes. The State expressly reserves the right to amend any provision of
27 this section to the extent it does not impair any contractual right of a bond
28 owner.

29 (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or
30 otherwise provide for bond insurance, investment contracts, credit and
31 liquidity facilities, interest-rate swap agreements and other derivative
32 products, and any other related instruments and matters the State Treasurer
33 determines are desirable in connection with issuance, incurrence, carrying,
34 or securing of bonds or notes. The State Treasurer is authorized to employ
35 and designate any financial consultants, underwriters, and bond attorneys to
36 be associated with any bond or note issue under this section as the State
37 Treasurer considers necessary.

38 **SECTION 27.10.(h) Variable Rate Demand Bonds and Notes.** – In fixing the
39 details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

40 (1) Be made payable from time to time on demand or tender for purchase by the
41 owner, if a credit facility supports the bonds or notes, unless the State
42 Treasurer specifically determines that a credit facility is not required upon a
43 finding and determination by the State Treasurer that the absence of a credit
44 facility will not materially and adversely affect the financial position of the
45 State and the marketing of the bonds or notes at a reasonable interest cost to
46 the State;

47 (2) Be additionally supported by a credit facility;

48 (3) Be made subject to redemption or a mandatory tender for purchase prior to
49 maturity;

50 (4) Bear interest at a rate or rates that may vary for any period of time, as may
51 be provided in the proceedings providing for the issuance of the bonds or

- 1 notes, including, without limitation, such variations as may be permitted
 2 pursuant to a par formula; and
 3 (5) Be made the subject of a remarketing agreement whereby an attempt is made
 4 to remarket bonds or notes to new purchasers prior to their presentment for
 5 payment to the provider of the credit facility or to the State.

6 If the aggregate principal amount payable by the State under a credit facility is in
 7 excess of the aggregate principal amount of bonds or notes secured by the credit facility,
 8 whether as a result of the inclusion in the credit facility of a provision for the payment of
 9 interest for a limited period of time or the payment of a redemption premium or for any other
 10 reason, then the amount of authorized but unissued bonds or notes during the term of such
 11 credit facility shall not be less than the amount of such excess, unless the payment of such
 12 excess is otherwise provided for by agreement of the State executed by the State Treasurer.

13 **SECTION 27.10.(i)** Interpretation of Section. –

- 14 (1) Additional method. – The foregoing sections of this section shall be deemed
 15 to provide an additional and alternative method for the doing of the things
 16 authorized under it and shall be regarded as supplemental and additional to
 17 powers conferred by other laws and shall not be regarded as in derogation of
 18 any powers now existing.
 19 (2) Statutory references. – References in this section to specific sections or
 20 Chapters of the General Statutes or to specific acts are intended to be
 21 references to such sections, Chapters, or acts as they may be amended from
 22 time to time by the General Assembly.
 23 (3) Broad construction. – This section, being necessary for the health and
 24 welfare of the people of the State, shall be broadly construed to effect the
 25 purposes thereof.
 26 (4) Inconsistent provisions. – Insofar as the provisions of this section are
 27 inconsistent with the provisions of any general, special, or local laws, or
 28 parts thereof, the provisions of this section shall be controlling.
 29 (5) Severability. – If any provision of this section or the application thereof to
 30 any person or circumstance is held invalid, such invalidity shall not affect
 31 other provisions or applications of the section which can be given effect
 32 without the invalid provision or application, and to this end the provisions of
 33 this section are declared to be severable.

34 **SECTION 27.10.(j)** G.S 116-29.5 reads as rewritten:

35 "**§ 116-29.5. Biomedical Research Imaging Center.**

36 The General Assembly finds that the construction of the Biomedical Research Imaging
 37 Center at the University of North Carolina at Chapel Hill is a vital component of the State's
 38 efforts to improve the health and wellness of its citizens. Therefore, there is appropriated from
 39 the General Fund to the Board of Governors of The University of North Carolina the following
 40 sums for the corresponding fiscal year to be used for the planning and construction of the
 41 Biomedical Research Imaging Center:

Fiscal Year	Amount:
42 2009-2010	\$172,000,000 <u>\$74,000,000</u>
43 2010-2011	\$45,000,000 <u>\$100,000,000</u>
44 <u>2012-2013</u>	<u>\$50,000,000</u>
45 <u>2013-2014</u>	<u>\$16,000,000.</u> "

46 **SECTION 27.10.(k)** The funds appropriated for the 2009-2010 shall be placed in a
 47 Reserve for the Biomedical Research Imaging Center and shall be spent only to the extent that
 48 the Council of State does not authorize the issuance of bonds in the amount of \$74,000,000
 49 during the 2009-2010 fiscal year.
 50

1 **SECTION 27.10.(l)** Effective Date. – This section is effective when it becomes
2 law.

3 4 **PART XXVIII. MISCELLANEOUS PROVISIONS**

5 6 **STATE BUDGET ACT APPLIES**

7 **SECTION 28.1.** The provisions of the State Budget Act, Chapter 143C of the
8 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
9 this act by reference.

10 11 **COMMITTEE REPORT**

12 **SECTION 28.2.(a)** The Senate Appropriations Committee Report on the
13 Continuation, Expansion and Capital Budgets dated April 7, 2009, which was distributed in the
14 Senate and the House of Representatives and used to explain this act, shall indicate action by
15 the General Assembly on this act and shall therefore be used to construe this act, as provided in
16 the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be
17 considered a part of this act and as such shall be printed as a part of the Session Laws.

18 **SECTION 28.2.(b)** The budget enacted by the General Assembly is for the
19 maintenance of the various departments, institutions, and other spending agencies of the State
20 for the 2008-2009 budget as provided in G.S. 143C-3-5. This budget includes the
21 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

22 The Director of the Budget submitted recommended adjustments to the budget to
23 the General Assembly in March 2009 in the documents "North Carolina State Budget,
24 Recommended Operating Budget 2009-2011, Volumes 1 through 6," for the 2009-2011 fiscal
25 biennium for the various departments, institutions, and other spending agencies of the State.
26 The adjustments to these documents made by the General Assembly are set out in the
27 Committee Report.

28 **SECTION 28.2.(c)** The budget enacted by the General Assembly shall also be
29 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
30 appropriate legislation.

31 In the event that there is a conflict between the line-item budget certified by the
32 Director of the Budget and the budget enacted by the General Assembly, the budget enacted by
33 the General Assembly shall prevail.

34 35 **MOST TEXT APPLIES ONLY TO THE 2009-2011 FISCAL BIENNIUM**

36 **SECTION 28.3.** Except for statutory changes or other provisions that clearly
37 indicate an intention to have effects beyond the 2009-2011 fiscal biennium, the textual
38 provisions of this act apply only to funds appropriated for, and activities occurring during, the
39 2009-2011 fiscal biennium.

40 41 **EFFECT OF HEADINGS**

42 **SECTION 28.4.** The headings to the parts and sections of this act are a
43 convenience to the reader and are for reference only. The headings do not expand, limit, or
44 define the text of this act, except for effective dates referring to a part.

45 46 **SEVERABILITY CLAUSE**

47 **SECTION 28.5.** If any section or provision of this act is declared unconstitutional
48 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
49 than the part so declared to be unconstitutional or invalid.

50 51 **EFFECTIVE DATE**

1 **SECTION 28.6.** Except as otherwise provided, this act becomes effective July 1,
2 2009.