

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 622
Appropriations/Base Budget Committee Substitute Adopted 5/3/05
Pensions & Retirement and Aging Committee Substitute Adopted 5/3/05
Fourth Edition Engrossed 5/5/05
House Committee Substitute Favorable 6/14/05
House Committee Substitute #2 Favorable 6/15/05

Short Title: 2005 Appropriations Act.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT
3 OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND
4 AGENCIES, AND FOR OTHER PURPOSES; TO INCREASE FEES FOR
5 LICENSING OF PROPRIETARY SCHOOLS AS RECOMMENDED BY THE
6 STATE BOARD; TO EXPAND THE EXPRESS REVIEW PROGRAM UNDER
7 THE DENR STATEWIDE; TO INCREASE THE CHARGE FOR APPELLATE
8 DIVISION REPORTS TO THE ACTUAL COST; TO INCREASE COURT COSTS
9 IN CRIMINAL ACTIONS FOR THE SUPPLEMENTAL PENSION BENEFITS
10 FOR SHERIFFS; TO PERMANENTLY INCREASE THE EXCISE TAX ON
11 CIGARETTES BY 25¢ A PACK BEGINNING JULY 1, 2005; TO
12 PERMANENTLY INCREASE THE EXCISE TAX RATE ON TOBACCO
13 PRODUCTS OTHER THAN CIGARETTES AND CIGARS TO 6% BEGINNING
14 JULY 1, 2005; TO EQUALIZE THE GROSS PREMIUMS TAX RATES BY
15 SETTING THE RATE FOR HMOS AT 1.9% BEGINNING JANUARY 1, 2006;
16 TO SET THE PRIVILEGE TAX ON ENTERTAINMENTS AND MOVIES AT
17 7%; TO PROVIDE A TAX CREDIT EQUAL TO 15% OF QUALIFYING
18 EXPENSES FOR CERTAIN FILM PRODUCTIONS OCCURRING IN THIS
19 STATE; TO PROVIDE FOR A TAX CREDIT OF UP TO \$400.00 PER
20 EMPLOYEE FOR SMALL BUSINESSES WHO PROVIDE HEALTH
21 INSURANCE COVERAGE FOR EMPLOYEES; TO SET THE INSURANCE
22 REGULATORY CHARGE AT 5.5%; TO SET THE REGULATORY FEE FOR
23 UTILITIES COMMISSION AT 0.12%; TO SET THE NEWBORN SCREENING
24 FEE AT \$14.00; TO SET NUMEROUS FEES IN THE DHHS, DIVISION OF
25 FACILITY SERVICES; TO INCREASE VARIOUS AGRICULTURAL FEES; TO
26 INCREASE THE CAP FOR CAMA PERMIT FEES TO \$800.00; TO INCREASE
27 GENERAL COURT FEES FOR CRIMINAL CASES BY \$9.50; TO INCREASE
28 COURT FEES FOR CIVIL CASES BY \$10.00; TO INCREASE THE MAXIMUM
29 COURT FEE FOR THE ADMINISTRATION OF ESTATES AND TRUSTS TO
30 \$6,000; TO INCREASE THE FEE FOR EXPUNCTION TO \$125.00; TO

1 INCREASE THE FEES FOR ELECTRONIC MONITORING; TO INCREASE
 2 THE COURT COSTS FOR FAILURE TO WEAR A SEAT BELT TO \$75.00; TO
 3 INCREASE BUTNER PROPERTY TAXES TO A RATE OF 25¢ PER \$100.00
 4 VALUATION; TO SET FEES FOR THE POLICE INFORMATION NETWORK;
 5 TO INCREASE VARIOUS DEPARTMENT OF TRANSPORTATION FEES;
 6 AND TO ALLOW THE INDUSTRIAL COMMISSION TO ESTABLISH FEES
 7 BY RULE.

8 The General Assembly of North Carolina enacts:

9
 10 **PART I. INTRODUCTION AND TITLE OF ACT**

11
 12 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 13 Michaux

14 **INTRODUCTION**

15 **SECTION 1.1.** The appropriations made in this act are for maximum
 16 amounts necessary to provide the services and accomplish the purposes described in the
 17 budget in accordance with the Executive Budget Act. Savings shall be effected where
 18 the total amounts appropriated are not required to perform these services and
 19 accomplish these purposes and the savings shall revert to the appropriate fund at the end
 20 of each fiscal year, except as otherwise provided by law.

21
 22 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 23 Michaux

24 **TITLE OF ACT**

25 **SECTION 1.2.** This act shall be known as the "Current Operations and
 26 Capital Improvements Appropriations Act of 2005."

27
 28 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

29
 30 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 31 Michaux

32 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

33 **SECTION 2.1.** Appropriations from the General Fund of the State for the
 34 maintenance of the State departments, institutions, and agencies, and for other purposes
 35 as enumerated, are made for the biennium ending June 30, 2007, according to the
 36 following schedule:

37 Current Operations – General Fund	38 2005-2006	39 2006-2007
40 EDUCATION		
41 Community Colleges System Office	42 \$ 775,206,482	43 \$ 763,366,425
44 Department of Public Instruction	45 6,664,813,995	46 6,638,750,147
47 University of North Carolina – Board of Governors		
48 Appalachian State University	49 95,723,206	50 96,112,508
51 East Carolina University:		
52 Academic Affairs	53 149,258,329	152,405,105
54 Health Affairs	45,314,949	45,321,933
55 Elizabeth City State University	28,557,992	28,159,455
56 Fayetteville State University	42,743,828	42,798,406
57 North Carolina Agricultural and Technical		

1	State University	75,302,121	75,127,553
2	North Carolina Central University	58,325,133	58,083,922
3	North Carolina School of the Arts	21,316,022	20,853,451
4	North Carolina State University:		
5	Academic Affairs	295,194,174	300,333,788
6	Agricultural Extension	35,497,987	35,384,433
7	Agricultural Research	44,884,495	44,952,506
8	University of North Carolina at Asheville	29,194,226	29,733,101
9	University of North Carolina at Chapel Hill:		
10	Academic Affairs	207,951,612	216,911,650
11	Health Affairs	161,817,995	164,024,559
12	Area Health Education Centers	44,743,422	44,743,422
13	University of North Carolina at Charlotte	128,872,610	130,553,102
14	University of North Carolina at Greensboro	111,426,487	112,582,103
15	University of North Carolina at Pembroke	38,515,524	38,823,063
16	University of North Carolina at Wilmington	73,563,667	75,855,057
17	Western Carolina University	69,533,618	69,947,116
18	Winston-Salem State University	47,760,006	47,489,842
19	General Administration	48,864,530	48,926,344
20	University Institutional Programs	35,866,059	34,174,482
21	Related Educational Programs	115,329,807	116,360,229
22	North Carolina School of Science and Mathematics	14,355,420	14,313,392
23	UNC Hospitals at Chapel Hill	38,670,494	38,634,764
24	Total University of North Carolina –		
25	Board of Governors	\$ 2,058,583,713	\$ 2,082,605,286
26			
27	HEALTH AND HUMAN SERVICES		
28			
29	Department of Health and Human Services		
30	Office of the Secretary	\$ 114,593,090	\$ 113,593,090
31	Division of Aging	29,595,139	29,495,139
32	Division of Blind Services/Deaf/HH	9,561,797	9,681,220
33	Division of Child Development	265,981,736	268,588,518
34	Division of Education Services	33,852,267	34,281,895
35	Division of Facility Services	13,102,629	13,569,760
36	Division of Medical Assistance	2,553,639,668	2,817,546,300
37	Division of Mental Health	601,583,655	602,869,039
38	NC Health Choice	76,706,650	97,511,380
39	Division of Public Health	150,273,266	144,475,524
40	Division of Social Services	190,384,693	193,664,285
41	Division of Vocational Rehabilitation	41,755,526	42,142,193
42	Total Health and Human Services	\$ 4,081,030,116	\$ 4,367,418,343
43			
44	NATURAL AND ECONOMIC RESOURCES		
45			
46	Department of Agriculture and Consumer Services	\$ 51,021,684	\$ 50,616,509
47			
48	Department of Commerce		
49	Commerce	49,265,070	35,278,265
50	Commerce State-Aid	29,472,085	12,222,085
51	NC Biotechnology Center	12,083,395	10,583,395
52	Rural Economic Development Center	25,852,607	25,552,607
53			

1	Department of Environment and Natural Resources	170,428,004	163,019,324
2			
3	DENR Clean Water Management Trust Fund	62,000,000	62,000,000
4			
5	Department of Labor	14,684,807	14,700,179
6			
7	JUSTICE AND PUBLIC SAFETY		
8			
9	Department of Correction	\$ 1,029,449,707	\$ 1,050,558,023
10			
11	Department of Crime Control and Public Safety	35,576,632	35,974,945
12			
13	Judicial Department	341,682,284	343,820,429
14	Judicial Department – Indigent Defense	94,402,142	89,431,697
15			
16	Department of Justice	78,990,095	79,060,076
17			
18	Department of Juvenile Justice and		
19	Delinquency Prevention	141,010,329	138,610,329
20			
21	GENERAL GOVERNMENT		
22			
23	Department of Administration	\$ 58,934,261	\$ 58,818,473
24			
25	Office of Administrative Hearings	2,987,410	2,969,712
26			
27	Department of State Auditor	10,850,737	10,840,918
28			
29	Office of State Controller	10,043,268	10,044,511
30			
31	Department of Cultural Resources		
32	Cultural Resources	66,834,719	61,883,584
33	Roanoke Island Commission	1,783,374	1,783,374
34			
35	State Board of Elections	5,067,543	5,069,307
36			
37	General Assembly	42,984,588	46,965,432
38			
39	Office of the Governor		
40	Office of the Governor	5,324,590	5,344,528
41	Office of State Budget and Management	5,019,735	5,021,795
42	OSBM – Reserve for Special Appropriations	5,636,429	4,311,429
43	Housing Finance Agency	4,750,945	4,750,945
44			
45	Department of Insurance		
46	Insurance	28,088,214	28,110,582
47	Insurance –		
48	Volunteer Safety Workers' Compensation	2,500,000	4,500,000
49			
50	Office of Lieutenant Governor	754,737	753,037
51			
52	Department of Revenue	82,128,036	81,245,969
53			

1	Department of Secretary of State	8,784,018	8,764,932
2			
3	Department of State Treasurer		
4	State Treasurer	8,690,595	8,295,843
5	State Treasurer – Retirement for		
6	Fire and Rescue Squad Workers	8,551,457	8,551,457
7			
8	TRANSPORTATION		
9			
10	Department of Transportation	\$ 0	\$ 0
11			
12	RESERVES, ADJUSTMENTS, AND DEBT SERVICE		
13			
14	Reserve for Compensation Increases	\$ 237,728,000	\$ 229,728,000
15			
16	Salary Adjustment Fund: 2005-2007 Biennium	4,500,000	4,500,000
17			
18	Salary Adjustment Fund: 2004-2005 Fiscal Year	4,500,000	4,500,000
19			
20	Reserve for Teachers' and State Employees'		
21	Retirement Contribution	13,810,800	13,810,800
22			
23	Reserve for Retirement System Payback	25,000,000	0
24			
25	Reserve for Death Benefit Trust	12,899,200	12,899,200
26			
27	Reserve for Disability Income Plan	6,586,500	6,586,500
28			
29	Reserve for State Health Plan	137,400,000	183,200,000
30			
31	Contingency and Emergency Fund	5,000,000	5,000,000
32			
33	Reserve for Information Technology Rate Adjustments	(2,300,000)	(2,300,000)
34			
35	Information Technology Fund	24,375,000	8,025,000
36			
37	MH/DD/SAS Trust Fund	10,000,000	0
38			
39	Health and Wellness Trust Fund Senior Rx Program	14,000,000	0
40			
41	Reserve for Job Development Investment Grants (JDIG)	9,000,000	9,000,000
42			
43	Reserve for Housing Finance	5,000,000	0
44			
45	Reserve for HB 1048 – DWI Task Force		
46	Recommendations	1,000,000	0
47			
48	Reserve for Increased Fuel Costs	3,000,000	0
49			
50	Debt Service		
51	General Debt Service	489,544,211	619,291,140
52	Federal Reimbursement	1,616,380	1,616,380
53			

1 **TOTAL CURRENT OPERATIONS –**
 2 **GENERAL FUND**

\$ 17,077,927,894 \$ 17,417,450,912

3
 4
 5
 6 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 7 Michaux

8 **GENERAL FUND AVAILABILITY STATEMENT**

9 **SECTION 2.2.(a)** The General Fund availability used in developing the
 10 2005-2007 biennial budget is shown below:

	FY 2005-2006	FY 2006-2007
11		
12		
13 Unappropriated Balance Remaining		
14 from Previous Year	\$ 0	\$ 146,394,939
15 Projected Over Collections FY 2004-2005	527,200,000	0
16 Projected Reversions FY 2004-2005	75,000,000	0
17 Less Earmarkings of Year-End Credit Balance		
18 Savings Reserve Account	(170,000,000)	0
19 Repairs and Renovations	(102,955,000)	0
20 Beginning Unreserved Credit Balance	\$ 329,245,000	\$ 146,394,939
21		
22 Revenues Based on Existing Tax Structure	\$ 15,250,100,000	\$ 15,903,000,000
23		
24 Nontax Revenues		
25 Investment Income	75,300,000	78,500,000
26 Judicial Fees	142,200,000	147,900,000
27 Disproportionate Share	100,000,000	100,000,000
28 Insurance	56,600,000	58,800,000
29 Other Nontax Revenues	150,400,000	161,800,000
30 Highway Trust Fund/Use Tax		
31 Reimbursement Transfer	252,558,117	252,663,009
32 Highway Fund Transfer	16,200,000	16,200,000
33 Subtotal Nontax Revenues	\$ 793,258,117	\$ 815,863,009
34		
35 Total General Fund Availability	\$ 16,372,603,117	\$ 16,865,257,948
36		
37 Adjustments to Availability: 2005 Session		
38 Streamlined Sales Tax Changes	61,700,000	89,500,000
39 Extend 4.5% Sales Tax Rate	413,400,000	458,700,000
40 Other Sales Tax Changes:		
41 Apply Sales Tax to Service Contracts		
42 and Warranties	10,100,000	16,800,000
43 Apply Sales Tax to Candy	11,000,000	15,800,000
44 Excise Tax on Cigarettes and		
45 Other Tobacco Products	142,000,000	165,000,000
46 Extend Marginal Individual Income		
47 Tax Rate of 8.25%	40,200,000	91,700,000
48 Continue Use Tax Line on Individual Returns	3,200,000	3,200,000
49 Conform Estate Tax to Federal Sunset	30,600,000	121,600,000
50 Film Industry Jobs Incentives	(6,000,000)	(6,000,000)
51 IRC Update – Partial Conformance	(8,000,000)	(10,700,000)
52 Small Business Tax Credit for		
53 Health Insurance Coverage	(17,700,000)	(39,800,000)

1	Privilege Tax on Entertainment	18,000,000	30,000,000
2	Gross Premium Tax Rate on		
3	Health Maintenance Organizations	14,300,000	14,300,000
4	Increase Earmarking for NC Grape Growers Council	(150,000)	(150,000)
5	Justice and Public Safety Fees	20,428,271	20,428,271
6	Transfer from Tobacco Trust Fund	34,000,000	30,000,000
7	Transfers from Special Revenue and Other Funds	9,803,950	0
8	Reimburse Debt Service for Certain Capital		
9	Facilities and Land Acquisition		
10	per S.L. 2004-179	5,958,723	21,060,827
11	Adjust Transfer from Insurance Regulatory Fund	256,513	243,813
12	Adjust Transfer from Treasurer's Office	468,478	67,478
13	DOR-Revenue Enhancement Initiative	97,500,000	97,500,000
14	Proceeds from the Sale of Polk Building	4,977,781	0
15			
16	Subtotal Adjustments to Availability:		
17	2005 Session	\$ 886,043,716	\$ 1,119,250,389
18			
19	Revised General Fund Availability	\$ 17,258,646,833	\$ 17,984,508,337
20			
21	Less: General Fund Appropriations	(\$17,112,251,894)	(\$17,417,450,912)
22			
23	Unappropriated Balance Remaining	\$ 146,394,939	\$ 567,057,425
24			

25 **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited
26 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
27 Section 6(2) of S.L. 1999-2 during the 2005-2007 fiscal biennium, the sum of
28 thirty-four million dollars (\$34,000,000) for the 2005-2006 fiscal year and the sum of
29 thirty million dollars (\$30,000,000) for the 2006-2007 fiscal year shall be transferred
30 from the Department of Agriculture and Consumer Services, Budget Code 23703
31 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code
32 19978 (Intrastate Transfers) to support General Fund appropriations for the 2005-2006
33 and 2006-2007 fiscal years.

34 **SECTION 2.2.(b1)** Notwithstanding the provisions of G.S. 143-15.2 and
35 G.S. 143-15.3, the State Controller shall transfer only one hundred seventy million
36 dollars (\$170,000,000) from the unreserved credit balance to the Savings Reserve
37 Account on June 30, 2005.

38 **SECTION 2.2.(c)** G.S. 143-15.3 is amended by adding a new subsection to
39 read:

40 "(a2) The transfer of funds to the Savings Reserve Account in accordance with this
41 section or any other provision of law is not an "appropriation made by law", as that
42 phrase is used in Article V, Section 7(1) of the North Carolina Constitution."

43 This subsection becomes effective June 30, 2005.

44 **SECTION 2.2.(d)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
45 State Controller shall transfer one hundred two million nine hundred fifty-five thousand
46 dollars (\$102,955,000) from the unreserved credit balance to the Repairs and
47 Renovations Reserve Account on June 30, 2005. Funds transferred under this section to
48 the Repairs and Renovations Reserve Account are appropriated for the 2005-2006 fiscal
49 year to be used in accordance with G.S. 143-15.3A. This subsection becomes effective
50 June 30, 2005.

51 **SECTION 2.2.(e)** When the Highway Trust Fund was created in 1989, the
52 revenue from the sales tax on motor vehicles was transferred from the General Fund to
53 the Highway Trust Fund. To offset this loss of revenue from the General Fund, the

1 Highway Trust Fund was required to transfer one hundred seventy million dollars
 2 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989
 3 from the sales tax on motor vehicles. This transfer did not, however, make the General
 4 Fund whole after the transfer of the sales tax revenue because no provision has been
 5 made to adjust the amount for the increased volume of transactions and increased
 6 vehicle prices. The additional eighty million dollars (\$80,000,000) transferred from the
 7 Highway Trust Fund to the General Fund by this act is an effort to recover a portion of
 8 the sales tax revenues that would have gone to the General Fund over the last 16 years.

9 **SECTION 2.2.(f)** Notwithstanding G.S. 105-187.9(b)(1), the sum to be
 10 transferred under that subdivision for the 2005-2006 fiscal year and for the 2006-2007
 11 fiscal year is two hundred fifty million dollars (\$250,000,000).

12 **SECTION 2.2.(g)** Section 2.2(g) of S.L. 2002-126 is repealed.

13 **SECTION 2.2.(h)** Notwithstanding any other provision of law to the
 14 contrary, effective July 1, 2005, cash balances remaining in special funds on June 30,
 15 2005, shall be transferred to the State Controller to be deposited in Nontax Budget Code
 16 19978 (Intrastate Transfers) according to the schedule that follows. These funds shall
 17 be used to support General Fund appropriations for the 2005-2006 fiscal year.

Fund	Amount Transferred
Department of Environment and Natural Resources	
Budget Code 24300, Fund Code 2338 (DAQ-Inspections and Maintenance – Air Pollution)	\$ 300,000
Budget Code 24300, Fund Code 2106 (DEH – Sleep Products)	200,000
Budget Code 24300, Fund Code 2735 (DLR – Sedimentation Fees)	200,000
Budget Code 24306, Fund Code 2127 (DWM – Clean-Up Dry Cleaning Solvent)	4,350,000
Budget Code 24300, Fund Code 2310 (DWQ – Well Construction Fund)	100,000
Budget Code 24300, Fund Code 2335 (DWQ – Lab Certification Fees)	100,000
Budget Code 24300, Fund Code 2341 (DWQ – Water Permits)	500,000
Budget Code 64306, Fund Code 6341 (DWQ – WW Treatment Maintenance and Repair)	100,000
Budget Code 24304, Fund Code 2982 (DWQ – Riparian Buffer Restoration)	2,000,000
Department of Correction	
Budget Code 24502 (Inmate Canteen/Welfare Fund)	440,000
Judicial Department	
Budget Code 22005, Fund Code 2263 (Worthless Check Fund)	100,000
Department of Administration	
Budget Code 24160, Fund Code 2000 (NC Flex)	913,950

44 **SECTION 2.2.(i)** The transfer of cash from the Department of Correction,
 45 Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code
 46 19978 (Intrastate Transfers) shall be increased by five hundred thousand dollars
 47 (\$500,000), effective July 1, 2005, for the 2005-2006 fiscal year.

48 **SECTION 2.2.(j)** Notwithstanding G.S. 143-15.3B(a) for the 2005-2007
 49 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for
 50 the 2005-2006 fiscal year is only sixty-two million dollars (\$62,000,000) as provided by
 51 this act, and the appropriation for the 2006-2007 fiscal year is only sixty-two million
 52 dollars (\$62,000,000) as provided by this act. The funds appropriated by this act to the
 53 Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

1
2 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**
3

4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

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

7 **SECTION 3.1.** Appropriations from the State Highway Fund for the
8 maintenance and operation of the Department of Transportation and for other purposes
9 as enumerated are made for the biennium ending June 30, 2007, according to the
10 following schedule:

11	Current Operations – Highway Fund	2005-2006	2006-2007
12	Department of Transportation		
13	Administration	\$ 93,888,317	\$ 95,100,980
14	Division of Highways		
15	Administration	30,621,612	30,632,164
16	Construction	139,010,000	139,750,000
17	Maintenance	832,457,458	830,423,288
18	Planning and Research	4,280,000	4,280,000
19	OSHA Program	425,000	425,000
20	Ferry Operations	21,264,811	21,264,811
21	State Aid		
22	Municipalities	91,910,000	92,650,000
23	Public Transportation	66,466,447	89,866,447
24	Railroads	16,531,153	15,531,153
25	Governor's Highway Safety	293,118	293,118
26	Division of Motor Vehicles	96,047,914	95,468,137
27	Other State Agencies	236,639,318	231,279,392
28	Reserves and Transfers	23,174,852	25,274,852
29	TOTAL	\$ 1,653,010,000	\$ 1,672,239,342

30
31 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
32 Michaux

33 **HIGHWAY FUND AVAILABILITY STATEMENT**

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

36	Highway Fund Availability Statement	2005-2006	2006-2007
37	Beginning Credit Balance	\$ 10,490,000	\$ -
38	Estimated Revenue	1,642,520,000	1,712,940,000
39	Estimated Reversions	-	-
40	Total Highway Fund Availability	\$ 1,653,010,000	\$ 1,712,940,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

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, 2007, according to the following schedule:

Current Operations – Highway Trust Fund	2005-2006	2006-2007
Intrastate System	\$ 472,112,366	\$ 496,924,658
Urban Loops	190,902,579	200,935,637
Aid to Municipalities	49,535,599	52,138,988
Secondary Roads	86,825,599	90,358,988
Program Administration	41,295,740	42,918,720
Transfer to General Fund	252,558,117	252,663,009
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	\$ 1,093,230,000	\$ 1,135,940,000

PART V. BLOCK GRANTS

Requested by: Representatives Insko, Barnhart

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2006, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 15,071,666
02. Limited Purpose Agencies	837,315
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	837,315
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 16,746,296

SOCIAL SERVICES BLOCK GRANT

01. County departments of social services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02. Allocation for in-home services provided by county departments of social services	2,101,113
03. Adult day care services	2,155,301

1			
2	04.	Child Protective Services/CPS Investigative Services/Child Medical Evaluation Program	238,321
3			
4			
5	05.	Foster Care Services – CCI's	1,706,063
6			
7	06.	Division of Aging and Adult Services – Home and Community Care Block Grant	1,834,077
8			
9			
10	07.	UNC-CH CARES Program for training and consultation services	247,920
11			
12			
13	08.	Mental Health Services Program	422,003
14			
15	09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Developmentally Disabled Services Program	5,000,000
16			
17			
18			
19	10.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
20			
21			
22	11.	Division of Services for the Blind – Independent Living Program	3,182,987
23			
24			
25	12.	Division of Vocational Rehabilitation Services – Easter Seals Society/UCP	188,263
26			
27			
28	13.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
29			
30			
31			
32			
33	14.	Child Care Subsidies	3,150,000
34			
35	15.	Division of Facility Services – Adult Care Licensure Program	411,897
36			
37			
38	16.	Division of Facility Services – Mental Health Licensure	205,668
39			
40			
41	17.	State administration	1,706,017
42			
43	18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Administration	18,098
44			
45			
46			
47	19.	Division of Facility Services	37,204
48			
49	20.	Office of the Secretary – NC Interagency Council for Coordinating Homeless Programs	250,000
50			
51			
52	21.	Department of Administration for the N.C. State Commission of Indian Affairs	
53			

1	In-Home Services Program for the Elderly	203,198
2		
3	22. Transfer to Preventative Health Services Block	
4	Grant for HIV/AIDS education, counseling, and	
5	testing	145,819
6		
7	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 55,348,041
8		
9	LOW-INCOME ENERGY BLOCK GRANT	
10		
11	01. Energy Assistance Programs	\$ 13,208,740
12		
13	02. Crisis Intervention	9,592,387
14		
15	03. Administration	3,186,258
16	County DSS	\$1,930,734
17	Division of Social Services	\$ 300,000
18	Division of Mental Health, Developmental	
19	Disabilities, and Substance Abuse	
20	Services	\$ 7,146
21	Local Residential Energy Efficiency	
22	Service Providers	\$ 353,820
23	Office of the Secretary	\$ 594,558
24		
25	04. Weatherization Program	4,343,072
26		
27	05. Department of Administration –	
28	N.C. State Commission of Indian Affairs	54,840
29		
30	06. Heating Air Repair and Replacement Program	2,025,687
31		
32	TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 32,410,984
33		
34	MENTAL HEALTH SERVICES BLOCK GRANT	
35		
36	01. Provision of community-based	
37	services for severe and persistently	
38	mentally ill adults	\$ 6,983,202
39		
40	02. Provision of community-based	
41	services to children	3,921,991
42		
43	03. Comprehensive Treatment Services	
44	Program for Children	1,500,000
45		
46	04. Administration	568,911
47		
48	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,974,104
49		
50	SUBSTANCE ABUSE PREVENTION	
51	AND TREATMENT BLOCK GRANT	
52		
53	01. Provision of community-based	

1	alcohol and drug abuse services,	
2	tuberculosis services, and services	
3	provided by the Alcohol and Drug Abuse	
4	Treatment Centers	\$ 20,441,082
5		
6	02. Continuation of services for	
7	pregnant women and women	
8	with dependent children	8,069,524
9		
10	03. Continuation of services to	
11	IV drug abusers and others at risk	
12	for HIV diseases	4,816,378
13		
14	04. Child Substance Abuse Prevention	5,835,701
15		
16	05. Provision of services to children	
17	and adolescents	4,940,500
18		
19	06. Juvenile Services – Family Focus	851,156
20		
21	07. Allocation to the Division of Public Health	
22	for HIV/STD Risk Reduction Projects	383,980
23		
24	08. Allocation to the Division of Public Health	
25	for HIV/STD Prevention by County Health	
26	Departments	209,576
27		
28	09. Allocation to the Division of Public Health	
29	for the Maternal and Child Health Hotline	37,779
30		
31	10. Administration	2,596,307
32		
33	TOTAL SUBSTANCE ABUSE PREVENTION	
34	AND TREATMENT BLOCK GRANT	\$ 48,181,983
35		
36	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
37		
38	01. Child care subsidies	\$158,708,393
39		
40	02. Quality and availability initiatives	33,059,644
41		
42	03. Administrative expenses	7,163,654
43		
44	04. Transfer from TANF Block Grant for	
45	child care subsidies	81,292,880
46		
47	TOTAL CHILD CARE AND DEVELOPMENT FUND	
48	BLOCK GRANT	\$280,224,571
49		
50	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
51	(TANF) BLOCK GRANT	
52		
53	01. Work First Cash Assistance	\$107,794,365

1			
2	02.	Work First County Block Grants	94,653,315
3			
4	03.	Child Welfare Workers for local DSS	12,452,391
5			
6	04.	Support Our Students – Department of	
7		Juvenile Justice and Delinquency	
8		Prevention	2,749,642
9			
10	05.	Family Violence Prevention	1,200,000
11			
12	06.	Work First – After-School Services for	
13		At-Risk Children	
14		YWCA Central Carolinas	
15		Youth Development Programs \$176,000	2,249,642
16			
17	07.	Division of Social Services –	
18		Administration	356,291
19			
20	08.	Office of the Secretary –	
21		Administration	60,249
22			
23	09.	Child Welfare Training	2,550,000
24			
25	10.	Boys and Girls Clubs	1,000,000
26			
27	11.	Work Central Career Advancement Center	550,000
28			
29	12.	Special Children's Adoption Fund	3,000,000
30			
31	13.	Maternity Homes	838,000
32			
33	14.	After-School Programs for At-Risk Youth in	
34		Middle Schools	500,000
35			
36	15.	Pregnancy Prevention Initiatives	2,500,000
37			
38	16.	Subsidized Child Care for TANF Recipients	35,331,547
39			
40	17.	TANF Automation Projects	592,500
41			
42	18.	NC FAST Implementation	2,717,298
43			
44	19.	Transfer to the Child Care and	
45		Development Fund Block Grant	
46		for child care subsidies	81,292,880
47			
48	20.	Transfer to Social Services Block Grant for	
49		County Departments of Social Services for	
50		Children's Services	4,500,000
51			
52	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
53	(TANF) BLOCK GRANT		\$356,888,120

1
2 MATERNAL AND CHILD HEALTH BLOCK GRANT
3

4	01.	Healthy Mothers/Healthy Children Block Grants to Aid-to-County	9,189,236
5			
6			
7	02.	Children's Health Services Aid-to-County	7,364,216
8			
9	03.	Healthy Beginnings Aid-to-County	404,559
10			
11	04.	Maternal Health Aid-to-County	397,761
12			
13	05.	Children's Health Services	2,878,883
14			
15	06.	Office of Women's Health and Maternal Health Activities	114,063
16			
17			
18	07.	State Center for Health Statistics	28,874
19			
20	08.	Local Technical Assistance & Training	46,866
21			
22	09.	Injury and Violence Prevention	149,438
23			
24	10.	Office of Minority Health	99,352
25			
26	11.	Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	25,713
27			
28			
29	12.	Immunization Program – Vaccine Distribution	819,997
30			
31	13.	Administration	518,137
32			
33	14.	Adolescent Pregnancy Prevention Coalition of NC	150,000

34
35 TOTAL MATERNAL AND CHILD
36 HEALTH BLOCK GRANT \$ 22,207,095
37

38 PREVENTIVE HEALTH SERVICES BLOCK GRANT
39

40	01.	Statewide Health Promotion Programs	\$3,653,520
41			
42	02.	Rape Crisis/Victims' Services Program – Council for Women	197,112
43			
44			
45	03.	Transfer from Social Services Block Grant – HIV/AIDS education, counseling, and testing	145,819
46			
47			
48			
49	04.	Oral Health	134,251
50			
51	05.	Administration and Program Support	121,271
52			
53	06.	Osteoporosis Task Force Operating Costs	150,000

1
2 TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$4,401,973
3

4 **GENERAL PROVISIONS**

5 **SECTION 5.1.(b)** Information to Be Included in Block Grant Plans. – The
6 Department of Health and Human Services shall submit a separate plan for each Block
7 Grant received and administered by the Department, and each plan shall include the
8 following:

- 9 (1) A delineation of the proposed allocations by program or activity,
10 including State and federal match requirements.
11 (2) A delineation of the proposed State and local administrative
12 expenditures.
13 (3) An identification of all new positions to be established through the
14 Block Grant, including permanent, temporary, and time-limited
15 positions.
16 (4) A comparison of the proposed allocations by program or activity with
17 two prior years' program and activity budgets and two prior years'
18 actual program or activity expenditures.
19 (5) A projection of current year expenditures by program or activity.
20 (6) A projection of federal Block Grant funds available, including unspent
21 federal funds from the current and prior fiscal years.

22 **SECTION 5.1.(c)** Changes in Federal Fund Availability. – If the Congress
23 of the United States increases the federal fund availability for any of the Block Grants
24 administered by the Department of Health and Human Services from the amounts
25 appropriated in this section, the Department shall allocate the increase proportionally
26 across the program and activity appropriations identified for that Block Grant in this
27 section. In allocating an increase in federal fund availability, the Department shall not
28 propose funding for new programs or activities not appropriated in this section or
29 increase State administrative expenditures.

30 If the Congress of the United States decreases the federal fund availability for
31 any of the Block Grants administered by the Department of Health and Human Services
32 from the amounts appropriated in this section, the Department shall reduce State
33 administration by at least the percentage of the reduction in federal funds. After
34 determining the State administration, the remaining reductions shall be allocated
35 proportionately across the program and activity appropriations identified for that Block
36 Grant in this section. In allocating a decrease in federal fund availability, the
37 Department shall not eliminate the funding for a program or activity appropriated in this
38 section unless it is related to the State administration.

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

46 **SECTION 5.1.(d)** All changes to the budgeted allocations to the Block
47 Grants administered by the Department of Health and Human Services that are not
48 specifically addressed in this section shall be approved by the Office of State Budget
49 and Management, and a report shall be submitted to the Joint Legislative Commission
50 on Governmental Operations for review prior to implementing the changes. All changes
51 to the budgeted allocations to the Block Grant shall be reported immediately to the
52 House of Representatives Appropriations Subcommittee on Health and Human

1 Services, the Senate Appropriations Committee on Health and Human Services, and the
2 Fiscal Research Division.

3 **SECTION 5.1.(e)** The Department of Health and Human Services shall
4 develop a monitoring and oversight plan for all recipients, both public and private, and
5 subrecipients of the federal Block Grant funding. The plan shall be modeled after the
6 Department's performance contracting initiative and include the following:

- 7 (1) Performance standards for recipients.
- 8 (2) Financial audit standards for non-State entities equivalent to the
9 requirements in G.S. 143-6.2 for non-State entities receiving State
10 funds.
- 11 (3) Means for collecting performance data from recipients.
- 12 (4) Any other information necessary for monitoring and overseeing the
13 use of Block Grant funding.

14 The Department shall provide the plan to the Fiscal Research Division by January 1,
15 2006.

16 **SECTION 5.1.(f)** The Department of Health and Human Services shall
17 report to the House of Representatives Appropriations Subcommittee on Health and
18 Human Services, the Senate Appropriations Committee on Health and Human Services,
19 and the Fiscal Research Division on positions funded from federal Block Grants. The
20 report shall include the following for each Block Grant:

- 21 (1) All State positions currently funded through the Block Grant,
22 including permanent, temporary, and time-limited positions.
- 23 (2) Budgeted salary and fringe benefits for each position.
- 24 (3) Identify the percentage of Block Grant funds used to fund each
25 position.

26 The report shall be submitted no later than December 1, 2005.

27 **SOCIAL SERVICES BLOCK GRANT**

28 **SECTION 5.1.(g)** Social Services Block Grant funds appropriated to the
29 North Carolina Inter-Agency Council for Coordinating Homeless Program are exempt
30 from the provisions of 10A NCAC 71R.0201(3).

31 **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**

32 **SECTION 5.1.(h)** Additional emergency contingency funds received may
33 be allocated for Energy Assistance Payments or Crisis Intervention Payments without
34 prior consultation with the Joint Legislative Commission on Governmental Operations.
35 Additional funds received shall be reported to the Joint Legislative Commission on
36 Governmental Operations and the Fiscal Research Division upon notification of the
37 award. The Department of Health and Human Services shall not allocate funds for any
38 activities, including increasing administration, other than assistance payments, without
39 prior consultation with the Joint Legislative Commission on Governmental Operations.

40 **MENTAL HEALTH BLOCK GRANT**

41 **SECTION 5.1.(i)** The sum of one million five hundred thousand dollars
42 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the
43 Department of Health and Human Services, Division of Mental Health, Developmental
44 Disabilities, and Substance Abuse Services, for the 2005-2006 fiscal year, and the sum
45 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
46 section in the Social Services Block Grant to the Department of Health and Human
47 Services, Division of Social Services, for the 2005-2006 fiscal year shall be used to
48 continue a Comprehensive Treatment Services Program for Children in accordance with
49 Section 10.25 of this act.

50 **SECTION 5.1.(j)** The Department of Health and Human Services shall
51 contract with the University of North Carolina at Chapel Hill for the purpose of
52 providing psychology student stipends in the amount of fifty thousand dollars (\$50,000)

1 for the 2005-2006 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract
2 shall be paid from the Mental Health Block Grant.

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

4 **SECTION 5.1.(k)** The sum of no more than four hundred thousand dollars
5 (\$400,000) appropriated in this section to the Department of Health and Human
6 Services in the Child Care and Development Fund Block Grant may be used for the
7 operations of the Medical Child Care Pilot.

8 **SECTION 5.1.(l)** Payment for subsidized child care services provided with
9 federal TANF funds shall comply with all regulations and policies issued by the
10 Division of Child Development and School Readiness for the subsidized child care
11 program.

12 **SECTION 5.1.(m)** If funds appropriated through the Child Care and
13 Development Fund Block Grant for any program cannot be obligated or spent in that
14 program within the obligation or liquidation periods allowed by the federal grants, the
15 Department may move funds to child care subsidies, unless otherwise prohibited by
16 federal requirements of the grant, in order to use the federal funds fully.

17 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT**
18 **(TANF)**

19 **SECTION 5.1.(n)** The sum of four hundred sixteen thousand five hundred
20 forty dollars (\$416,540) appropriated in this section in the TANF Block Grant to the
21 Department of Health and Human Services, Division of Social Services, for the
22 2005-2006 fiscal year shall be used to support administration of TANF-funded
23 programs.

24 **SECTION 5.1.(o)** The sum of two million seven hundred forty-nine
25 thousand six hundred forty-two dollars (\$2,749,642) appropriated in this section in the
26 TANF Block Grant to the Department of Health and Human Services and transferred to
27 the Department of Juvenile Justice and Delinquency Prevention for the 2005-2006 fiscal
28 year shall be used to support the existing Support Our Students Program, including gang
29 prevention, and to expand the Program statewide, focusing on low-income communities
30 in unserved areas. These funds shall not be used for administration of the Program.

31 **SECTION 5.1.(p)** The sum of one million two hundred thousand dollars
32 (\$1,200,000) appropriated under this section in the TANF Block Grant to the
33 Department of Health and Human Services, Division of Social Services, for the
34 2005-2006 fiscal year shall be used to provide domestic violence services to Work First
35 recipients. These funds shall be used to provide domestic violence counseling, support,
36 and other direct services to clients. These funds shall not be used to establish new
37 domestic violence shelters or to facilitate lobbying efforts. The Division of Social
38 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to
39 support one administrative position within the Division of Social Services to implement
40 this subsection.

41 Each county department of social services and the local domestic violence
42 shelter program serving the county shall jointly develop a plan for utilizing these funds.
43 The plan shall include the services to be provided and the manner in which the services
44 shall be delivered. The county plan shall be signed by the county social services director
45 or the director's designee and the domestic violence program director or the director's
46 designee and submitted to the Division of Social Services by December 1, 2005. The
47 Division of Social Services, in consultation with the Council for Women, shall review
48 the county plans and shall provide consultation and technical assistance to the
49 departments of social services and local domestic violence shelter programs, if needed.

50 The Division of Social Services shall allocate these funds to county
51 departments of social services according to the following formula: (i) each county shall
52 receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall
53 receive an allocation of the remaining funds based on the county's proportion of the

1 statewide total of the Work First caseload as of July 1, 2005, and the county's proportion
2 of the statewide total of the individuals receiving domestic violence services from
3 programs funded by the Council for Women as of July 1, 2005. The Division of Social
4 Services may reallocate unspent funds to counties that submit a written request for
5 additional funds.

6 The Department of Health and Human Services shall report on the uses of
7 these funds no later than March 1, 2006, to the House of Representatives Appropriations
8 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
9 Health and Human Services, and the Fiscal Research Division.

10 **SECTION 5.1.(q)** The sum of two million two hundred forty-nine thousand
11 six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF
12 Block Grant to the Department of Health and Human Services, Division of Social
13 Services, shall be used to expand after-school programs and services for at-risk children.
14 The Department shall develop and implement a grant program to award grants to
15 community-based programs that demonstrate the ability to reach children at risk of teen
16 pregnancy, school dropout, and gang participation. The Department shall award grants
17 to community-based organizations that demonstrate the ability to develop and
18 implement linkages with local departments of social services, area mental health
19 programs, schools, and other human services programs in order to provide support
20 services and assistance to the child and family. These funds may be used to fund one
21 position within the Division of Social Services to coordinate at-risk after-school
22 programs and shall not be used for other State administration. The Department shall
23 report no later than March 1, 2006, on its progress in complying with this section to the
24 House of Representatives Appropriations Subcommittee on Health and Human
25 Services, the Senate Appropriations Committee on Health and Human Services, and the
26 Fiscal Research Division.

27 **SECTION 5.1.(r)** The sum of twelve million four hundred fifty-two
28 thousand three hundred ninety-one dollars (\$12,452,391) appropriated in this section to
29 the Department of Health and Human Services, Division of Social Services, in the
30 TANF Block Grant for the 2005-2006 fiscal year for Child Welfare Improvements, shall
31 be allocated to the county departments of social services for hiring or contracting staff
32 to investigate and provide services in Child Protective Services cases; to provide foster
33 care and support services; to recruit, train, license, and support prospective foster and
34 adoptive families; and to provide interstate and postadoption services for eligible
35 families.

36 **SECTION 5.1.(s)** The sum of two million five hundred fifty thousand
37 dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the
38 Department of Health and Human Services, Division of Social Services, for fiscal year
39 2005-2006 shall be used to support various child welfare training projects as follows:

- 40 (1) Provide a regional training center in southeastern North Carolina.
- 41 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in
42 Social Work Collaborative.
- 43 (3) Provide training for residential child care facilities.
- 44 (4) Provide for various other child welfare training initiatives.

45 **SECTION 5.1.(t)** The sum of eight hundred thirty-eight thousand dollars
46 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
47 Health and Human Services shall be used to purchase services at maternity homes
48 throughout the State.

49 **SECTION 5.1.(u)** The sum of three million dollars (\$3,000,000)
50 appropriated in this section in the TANF Block Grant to the Department of Health and
51 Human Services, Special Children Adoption Fund, for the 2005-2006 fiscal year shall
52 be used in accordance with Section 10.48 of this act. The Division of Social Services,
53 in consultation with the North Carolina Association of County Directors of Social

1 Services and representatives of licensed private adoption agencies, shall develop
2 guidelines for the awarding of funds to licensed public and private adoption agencies
3 upon the adoption of children described in G.S. 108A-50 and in foster care. Payments
4 received from the Special Children Adoption Fund by participating agencies shall be
5 used exclusively to enhance the adoption services program. No local match shall be
6 required as a condition for receipt of these funds.

7 **SECTION 5.1.(v)** The sum of one million seven hundred six thousand sixty
8 three dollars (\$1,706,063) appropriated in this section in the TANF Block Grant and
9 transferred to the Social Services Block Grant to the Department of Health and Human
10 Services, Division of Social Services, for child caring agencies for the 2005-2006 fiscal
11 year shall be allocated to the State Private Child Caring Agencies Fund.

12 **SECTION 5.1.(w)** The sum of one million dollars (\$1,000,000) appropriated
13 in this section to the Department of Health and Human Services in the TANF Block
14 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.
15 The Department of Health and Human Services, in accordance with federal regulations
16 for the use of TANF Block Grant funds, shall administer a grant program to award
17 funds to the Boys and Girls Clubs across the State in order to implement programs that
18 improve the motivation, performance, and self-esteem of youths and to implement other
19 initiatives that would be expected to reduce gang participation, school dropout, and teen
20 pregnancy rates. The Department shall encourage and facilitate collaboration between
21 the Boys and Girls Clubs and Support Our Students, Communities in Schools, and
22 similar programs to submit joint applications for the funds if appropriate.

23 **SECTION 5.1.(x)** The sum of five hundred fifty thousand dollars (\$550,000)
24 appropriated in this section to the Department of Health and Human Services in the
25 TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc., shall
26 report on the number of people served and the services received as a result of the receipt
27 of funds. The report shall contain expenditure data, including the amount of funds used
28 for administration and direct training. The report shall also include the number of people
29 who have been employed as a direct result of services provided by Work Central, Inc.,
30 including the length of employment in the new position. The Department of Health and
31 Human Services shall evaluate the program and ensure that services provided are not
32 duplicative of local employment security commissions in the nine counties served by
33 Work Central, Inc. The evaluation report shall be submitted to the House of
34 Representatives Appropriations Subcommittee on Health and Human Services, the
35 Senate Appropriations Committee on Health and Human Services, and the Fiscal
36 Research Division no later than May 1, 2006.

37 **SECTION 5.1.(y)** The sum of two million seven hundred seventeen
38 thousand two hundred ninety-eight dollars (\$2,717,298) in this section appropriated to
39 the Department of Health and Human Services in the TANF Block Grant shall be used
40 to implement N.C. FAST (North Carolina Families Accessing Services through
41 Technology). The N.C. FAST Program involves the entire automation initiative through
42 which families access services and local departments of social services deliver benefits,
43 supervised by the Department of Health and Human Services, Divisions of Social
44 Services, Aging and Adult Services, Medical Assistance, and Child Development. The
45 statewide automated initiative shall be implemented in compliance with federal
46 regulations in order to ensure federal financial participation in the project. The
47 Department of Health and Human Services shall report on its compliance with this
48 subsection to the House of Representatives Appropriations Subcommittee on Health and
49 Human Services, the Senate Appropriations Committee on Health and Human Services,
50 and the Fiscal Research Division no later than January 1, 2006.

51 **SECTION 5.1.(z)** The sum of five hundred thousand dollars (\$500,000)
52 appropriated in this section to the Department of Health and Human Services, Division
53 of Social Services, in the TANF Block Grant shall be used to expand after-school

1 programs for at-risk children attending middle school. The Department shall develop
 2 and implement a grant program to award funds to community-based programs
 3 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout,
 4 and gang participation. These funds shall not be used for training or administration at
 5 the State level. All funds shall be distributed to community-based programs, focusing on
 6 those communities where similar programs do not exist in middle schools. The
 7 Department shall report to the House of Representatives Appropriations Subcommittee
 8 on Health and Human Services, the Senate Appropriations Committee on Health and
 9 Human Services, and the Fiscal Research Division on its progress in complying with
 10 this subsection no later than May 1, 2006.

11 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

12 **SECTION 5.1.(aa)** If federal funds are received under the Maternal and
 13 Child Health Block Grant for abstinence education, pursuant to section 912 of Public
 14 Law 104-193 (42 U.S.C. § 710), for the 2005-2006 fiscal year, then those funds shall be
 15 transferred to the State Board of Education to be administered by the Department of
 16 Public Instruction. The Department of Public Instruction shall use the funds to establish
 17 an Abstinence Until Marriage Education Program and shall delegate to one or more
 18 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The
 19 Department of Public Instruction shall carefully and strictly follow federal guidelines in
 20 implementing and administering the abstinence education grant funds.

21 **SECTION 5.1.(bb)** The Department of Health and Human Services shall
 22 ensure that there will be follow-up testing in the Newborn Screening Program.

23 **SECTION 5.1.(cc)** Of the funds budgeted in the Maternal and Child Health
 24 Block Grant, three million two hundred fifty thousand dollars (\$3,250,000) shall be
 25 used for a school nurse funding initiative for the 2005-2006 fiscal year. The Department
 26 of Health and Human Services, Division of Public Health, in conjunction with the
 27 Department of Public Instruction, shall provide funds to communities to hire school
 28 nurses. The program will fund approximately 65 time-limited nurses. The criteria shall
 29 include determining the areas in the greatest need for school nurses with the greatest
 30 inability to pay for these nurses. Among other criteria, consideration shall also be given
 31 to (i) the current nurse-to-student ratio; (ii) the economic status of the community; and
 32 (iii) the health needs of area children.

33 There shall be no supplanting of local or Title I funds with these block grant
 34 funds. Communities shall maintain their current level of effort and funding for school
 35 nurses. No block grant funds shall be used for funding nurses for State agencies. All
 36 funding shall be used for direct services.

37 The Department of Health and Human Services shall report on the use of
 38 funds allocated under this section by December 1, 2005, to the House of
 39 Representatives Appropriations Subcommittee on Health and Human Services, the
 40 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 41 Research Division.

42
 43 Requested by: Representatives Hunter, Warren

44 **NER BLOCK GRANTS**

45 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made
 46 for fiscal year ending June 30, 2006, according to the following schedule:

47 48 **COMMUNITY DEVELOPMENT BLOCK GRANT**

49		
50	01. State Administration	\$ 1,000,000
51		
52	02. Urgent Needs and Contingency	1,000,000
53		

1	03. Scattered Site Housing	13,200,000
2		
3	04. Economic Development	8,710,000
4		
5	05. Community Revitalization	13,500,000
6		
7	06. State Technical Assistance	450,000
8		
9	07. Housing Development	2,000,000
10		
11	08. Infrastructure	5,140,000
12		
13	TOTAL COMMUNITY DEVELOPMENT	
14	BLOCK GRANT – 2006 Program Year	\$ 45,000,000
15		

16 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds
 17 are reduced below the amounts specified above after the effective date of this act, then
 18 every program in each of these federal block grants shall be reduced by the same
 19 percentage as the reduction in federal funds.

20 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community
 21 Development Block Grant. – Any block grant funds appropriated by the Congress of the
 22 United States in addition to the funds specified in this section shall be expended as
 23 follows: each program category under the Community Development Block Grant shall
 24 be increased by the same percentage as the increase in federal funds.

25 **SECTION 5.2.(d)** Limitations on Community Development Block Grant
 26 Funds. – Of the funds appropriated in this section for the Community Development
 27 Block Grant, the following shall be allocated in each category for each program year: up
 28 to one million dollars (\$1,000,000) may be used for State Administration; not less than
 29 one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to
 30 thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered
 31 Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may
 32 be used for Economic Development, including Urban Redevelopment Grants and Small
 33 Business or Entrepreneurial Assistance; not less than thirteen million five hundred
 34 thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four
 35 hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;
 36 up to two million dollars (\$2,000,000) may be used for Housing Development; up to
 37 five million one hundred forty thousand dollars (\$5,140,000) may be used for
 38 Infrastructure. If federal block grant funds are reduced or increased by the Congress of
 39 the United States after the effective date of this act, then these reductions or increases
 40 shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

41 **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –
 42 Assistance to nonprofit organizations to increase their capacity to carry out
 43 CDBG-eligible activities in partnership with units of local government is an eligible
 44 activity under any program category in accordance with federal regulations. Capacity
 45 building grants may be made from funds available within program categories, program
 46 income, or unobligated funds.

47 **SECTION 5.2.(f)** Department of Commerce Demonstration Grants in
 48 Partnership with Rural Economic Development Center, Inc. – The Department of
 49 Commerce, in partnership with the Rural Economic Development Center, Inc., shall
 50 award up to two million two hundred fifty thousand dollars (\$2,250,000) in
 51 demonstration grants to local governments in very distressed rural areas of the State.
 52 These grants shall be used to address critical infrastructure and entrepreneurial needs
 53 and to provide small business assistance.

1 **SECTION 5.2.(g)** The Department of Commerce shall consult with the Joint
2 Legislative Commission on Governmental Operations prior to reallocating Community
3 Development Block Grant Funds. Notwithstanding the provisions of this subsection,
4 whenever the Director of the Budget finds that:

- 5 (1) A reallocation is required because of an emergency that poses an
6 imminent threat to public health or public safety, the Director of the
7 Budget may authorize the reallocation without consulting the
8 Commission. The Department of Commerce shall report to the
9 Commission on the reallocation no later than 30 days after it was
10 authorized and shall identify in the report the emergency, the type of
11 action taken, and how it was related to the emergency.
- 12 (2) The State will lose federal block grant funds or receive less federal
13 block grant funds in the next fiscal year unless a reallocation is made,
14 the Department of Commerce shall provide a written report to the
15 Commission on the proposed reallocation and shall identify the reason
16 that failure to take action will result in the loss of federal funds. If the
17 Commission does not hear the issue within 30 days of receipt of the
18 report, the Department may take the action without consulting the
19 Commission.

20 21 **PART VI. GENERAL PROVISIONS**

22
23 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
24 Michaux

25 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

26 **SECTION 6.1.(a)** Expenditures of cash balances, federal funds,
27 departmental receipts, grants, and gifts from the various General Fund, Special Revenue
28 Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes
29 are appropriated and authorized for the 2005-2007 fiscal biennium as follows:

- 30 (1) For all budget codes listed in "State of North Carolina, Recommended
31 Continuation Budget 2005-2007, Volumes 1 through 6", cash balances
32 and receipts are appropriated up to the amounts specified in Volumes 1
33 through 6, as adjusted by the General Assembly, for the 2005-2006
34 fiscal year and the 2006-2007 fiscal year. Funds may be expended only
35 for the programs, purposes, objects, and line items specified in
36 Volumes 1 through 6, or otherwise authorized by the General
37 Assembly.
- 38 (2) For all budget codes that are not listed in "State of North Carolina,
39 Recommended Continuation Budget 2005-2007, Volumes 1 through
40 6", cash balances and receipts are appropriated for each year of the
41 2005-2007 fiscal biennium up to the level of actual expenditures for
42 the 2004-2005 fiscal year, unless otherwise provided by law. Funds
43 may be expended only for the programs, purposes, objects, and line
44 items authorized for the 2004-2005 fiscal year.
- 45 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any
46 receipts that are required to be used to pay debt service requirements
47 for various outstanding bond issues and certificates of participation are
48 appropriated up to the actual amounts received for the 2005-2006
49 fiscal year and the 2006-2007 fiscal year and shall be used only to pay
50 debt service requirements.
- 51 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash
52 balances and receipts of funds that meet the definition issued by the
53 Governmental Accounting Standards Board of a trust or agency fund

1 are appropriated for and in the amounts required to meet the legal
2 requirements of the trust agreement for the 2005-2006 fiscal year and
3 the 2006-2007 fiscal year.

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

7 **SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the
8 amounts authorized by this section shall remain unexpended and unencumbered until
9 appropriated by the General Assembly in a subsequent fiscal year, unless the
10 expenditure of overrealized receipts in the fiscal year in which the receipts were
11 collected is authorized by the Executive Budget Act.

12 Overrealized receipts are appropriated up to the amounts necessary to
13 implement this subsection.

14 In addition to the consultation and reporting requirements set out in
15 G.S. 143-23 and G.S. 143-27, the Office of State Budget and Management shall report
16 to the Joint Legislative Commission on Governmental Operations and to the Fiscal
17 Research Division of the Legislative Services Office within 30 days after the end of
18 each quarter on any overrealized receipts approved for expenditure under this
19 subsection by the Director of the Budget. The report shall include the source of the
20 receipt, the amount overrealized, the amount authorized for expenditure, and the
21 rationale for expenditure.

22 **SECTION 6.1.(c)** Notwithstanding subsections (a) and (b) of this section,
23 there is appropriated from the Reserve for Reimbursements to Local Governments and
24 Shared Tax Revenues for each fiscal year an amount equal to the amount of the
25 distributions required by law to be made from that reserve for that fiscal year.

26 **SECTION 6.1.(d)** Notwithstanding subsections (a) and (b) of this section, if
27 Senate Bill 1126, 2005 Session, or substantially similar legislation revising the Coastal
28 Recreational Fishing License program or establishing a unified fishing license for
29 hunting and fishing in coastal, joint, and inland waters, becomes law, any receipts from
30 license revenues generated pursuant to such legislation are hereby appropriated for the
31 2005-2006 fiscal year and the 2006-2007 fiscal year for programs and purposes
32 authorized by law.

33
34 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
35 Michaux

36 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

37 **SECTION 6.2.** Funds in the amount of five million dollars (\$5,000,000) for
38 the 2005-2006 fiscal year and five million dollars (\$5,000,000) for the 2006-2007 fiscal
39 year are appropriated in this act to the Contingency and Emergency Fund. Of these
40 funds:

- 41 (1) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
42 fiscal year may be used for purposes related to the Base Realignment
43 and Closure Act (BRAC); and
- 44 (2) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
45 fiscal year and up to five hundred thousand dollars (\$500,000) for the
46 2006-2007 fiscal year may be expended for purposes other than those
47 set out in G.S. 143-23(a1)(2) or in subdivision (1) of this section.

48 The remainder of these funds shall be expended for purposes outlined in
49 G.S. 143-23(a1)(2).

50
51 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
52 Michaux

53 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

1 **SECTION 6.3.** All funds appropriated by this act into reserves may be
2 expended only for the purposes for which the reserves were established.
3

4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

6 **BUDGET REPORTS ACCURATELY REFLECT PROJECTED RECEIPTS,**
7 **EXPENDITURES, FUND BALANCES, AND ACTUAL COLLECTIONS**

8 **SECTION 6.4.** G.S. 143-11(a) reads as rewritten:

9 "**§ 143-11. Survey of departments. departments and recommended budget report.**

10 (a) On or before the fifteenth day of December, biennially in the even-numbered
11 years, the Director shall make a complete, careful survey of the operation and
12 management of all the departments, bureaus, divisions, officers, boards, commissions,
13 institutions, and agencies and undertakings of the State and all persons or corporations
14 who use or expend State funds, in the interest of economy and efficiency, and of
15 obtaining a working knowledge upon which to base recommendations to the General
16 Assembly as to appropriations for maintenance and special funds and capital
17 expenditures for the succeeding biennium. If the Director and the Commission shall
18 agree in their recommendations for the budget for the next biennial period, he shall
19 prepare their report in the form of a proposed budget, together with such comment and
20 recommendations as they may deem proper to make. If the Director and Commission
21 shall not agree in substantial particulars, the Director shall prepare the proposed budget
22 based on his own conclusions and judgment, and the Commission or any of its members
23 retain the right to submit separately to the General Assembly such statement of
24 disagreement and the particulars thereof as representing their views. The budget report
25 shall contain a complete and itemized plan of all proposed expenditures for each State
26 department, bureau, board, division, institution, commission, State agency or
27 undertaking, person or corporation who receives or may receive for use and expenditure
28 any State funds, in accordance with the classification of funds and accounts adopted by
29 the State Controller, and of the estimated revenues and borrowings for each year in the
30 ensuing biennial period beginning with the first day of July thereafter. Opposite each
31 line item of the proposed expenditures, the budget shall show in separate parallel
32 columns:

- 33 (1) Proposed expenditures and receipts for each fiscal year of the
34 biennium;
35 (2) The certified budget for the preceding fiscal year;
36 (3) The currently authorized budget for the preceding fiscal year;
37 (4) Actual expenditures and receipts for the most recent fiscal year for
38 which actual expenditure information is available; and
39 (5) Proposed increases and decreases.

40 Revenue and expenditure information shall be no less specific than the two-digit level in
41 the State Accounting System Chart of Accounts as prescribed by the State Controller.
42 The budget shall clearly differentiate between general fund expenditures for operating
43 and maintenance, special fund expenditures for any purpose, and proposed capital
44 improvements. The budget report shall include accurate projections of receipts,
45 expenditures, and fund balances for all budget codes, funds, and accounts. Estimated
46 receipts, including tuition collected by university or community college institutions,
47 shall be adjusted to reflect actual collections from the previous fiscal year, unless the
48 Director either (i) recommends a change that will result in collections in the budget year
49 that differ from the actual collections of the prior year or (ii) otherwise determines there
50 is a more reasonable basis upon which to accurately project receipts."
51

52 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
53 Michaux

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.5. Notwithstanding G.S. 143-34.1(a1), 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.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

DEVELOP AND IMPLEMENT OVERHEAD COST RECOVERY

SECTION 6.6.(a) The General Assembly finds that the General Fund supports many State agencies that provide services and administer programs that impact all of State government. These agencies include the Office of the Governor, the Office of State Controller, the Department of Administration, including the Office of State Personnel, State Property Office, Office of State Construction, and the Division of Purchase and Contract, the Secretary of State, the Office of State Treasurer, and the Office of State Auditor. The General Assembly also finds that the General Fund supports the departmental administrative overhead costs for many receipt-supported programs, activities, boards, and commissions. The General Assembly further finds that only federally funded programs routinely reimburse the State for such administrative overhead activities through an indirect cost allocation method. The General Assembly finds that an indirect cost allocation program should be established to recover overhead and indirect costs from all receipt-supported programs, activities, boards, and commissions.

SECTION 6.6.(b) The Office of State Budget and Management shall study the collection of overhead receipts and develop an overhead cost recovery program. In implementing this section, the Office of State Budget and Management shall do the following:

- (1) For each receipt, determine the authority and requirements for the allocation of overhead costs and collection of overhead receipts.
- (2) For each receipt for which the State currently redirects a portion for overhead costs, ensure that all future receipts revert to the General Fund in accordance with the State Budget Manual, except as otherwise required by law.
- (3) For each receipt for which the State does not currently redirect a portion for overhead costs, establish an indirect cost allocation methodology and redirect a portion of future receipts for overhead costs to the General Fund, except as otherwise required by law.
- (5) Estimate the anticipated reimbursement to the General Fund for the 2006-2007 fiscal year.
- (6) Effective with the 2006-2007 fiscal year, the Office of State Budget and Management shall implement the overhead cost recovery program to maximize reimbursement of statewide indirect costs supported by the General Fund.

SECTION 6.6.(c) The Office of State Budget and Management shall report on its progress in implementing this section to the Chairs of the Senate Committee on Appropriations/Base Budget, the Chairs of the House of Representatives Committee on

1 Appropriations, and the Fiscal Research Division by April 1, 2006. The report shall
2 recommend any statutory changes required to implement the requirements of this
3 section.

4 **SECTION 6.6.(d)** The requirements of this section shall apply to all receipts
5 credited to a State agency, special revenue fund, enterprise fund, internal service fund,
6 or trust fund, except as otherwise provided by law.

7
8 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
9 Michaux

10 **PRIOR CONSULTATION WITH THE JOINT LEGISLATIVE COMMISSION**
11 **ON GOVERNMENTAL OPERATIONS**

12 **SECTION 6.7.(a)** The last paragraph of G.S. 120-76(8) is recodified as
13 G.S. 120-76.1 and reads as rewritten:

14 **"§ 120-76.1. Prior consultation with the Commission.**

15 (a) Notwithstanding the provisions of ~~this subdivision~~ G.S. 120-76(8) or any
16 other provision of law requiring prior consultation by the Governor with the
17 Commission, whenever an expenditure is required because of an emergency that poses
18 an imminent threat to public health or public safety, and is either the result of a natural
19 event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck,
20 the Governor may take action ~~under this subsection~~ without consulting the Commission
21 if the action is determined by the Governor to be related to the emergency. The
22 Governor shall report to the Commission on any expenditures made under this
23 ~~paragraph~~ subsection no later than 30 days after making the expenditure and shall
24 identify in the report the emergency, the type of action taken, and how it was related to
25 the emergency.

26 (b) Any agency, board, commission, or other entity required under
27 G.S. 120-76(8) or any other provision of law to consult with the Commission prior to
28 taking an action shall submit a detailed report of the action under consideration to the
29 Chairs of the Commission, the Commission Assistant, and the Fiscal Research Division
30 of the General Assembly. If the Commission does not hold a meeting to hear the
31 consultation within 60 days of receiving the submission of the detailed report, the
32 consultation requirement is satisfied."

33 **SECTION 6.7.(b)** G.S. 143-23(a1) reads as rewritten:

34 "(a1) Notwithstanding the provisions of subsection (a) of this section, a department,
35 institution, or other spending agency may, with approval of the Director of the Budget,
36 spend more than was appropriated for:

- 37 (1) An object or line item within a purpose or program so long as the total
38 amount expended for the purpose or program is no more than was
39 appropriated from all sources for the purpose or program for the fiscal
40 period;
- 41 (2) A purpose or program, without consultation with the Joint Legislative
42 Commission on Governmental Operations, if the overexpenditure of
43 the purpose or program is:
- 44 a. Required by a court, Industrial Commission, or administrative
45 hearing officer's order;
 - 46 b. Required to respond to an unanticipated disaster such as a fire,
47 hurricane, or tornado; or
 - 48 c. Required to call out the National Guard.

49 The Director of the Budget shall report on a quarterly basis to the Joint
50 Legislative Commission on Governmental Operations on any
51 overexpenditures under this subdivision; or

- 52 (3) A purpose or program, after consultation with the Joint Legislative
53 Commission on Governmental Operations in accordance with

G.S. 120-76(8), and only if: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted and (ii) the scope of the purpose or program is not increased. The consultation is required as follows:

- a. For a purpose or program with a certified budget of up to five million dollars (\$5,000,000), consultation is required when the authorization for the overexpenditure exceeds ten percent (10%) of the certified budget;
- b. For a purpose or program with a certified budget of from five million dollars (\$5,000,000) up to twenty million dollars (\$20,000,000), consultation is required when the authorization for the overexpenditure exceeds five hundred thousand dollars (\$500,000) or seven and one-half percent (7.5%) of the certified budget, whichever is greater;
- c. For a purpose or program with a certified budget of twenty million dollars (\$20,000,000) or more, consultation is required when the authorization for the overexpenditure exceeds one million five hundred thousand dollars (\$1,500,000) or five percent (5%) of the certified budget, whichever is greater;
- d. For a purpose or program supported by federal funds or when expenditures are required for the reasons set out in subdivision (2) of this subsection, no consultation is required.

~~If the Joint Legislative Commission on Governmental Operations does not meet for more than 30 days, the Director of the Budget may satisfy the requirements of the subsection to report to or consult with the Commission by reporting to or consulting with a joint meeting of the Chairs of the Appropriations Committees of the Senate and the House of Representatives."~~

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES IN ACCORDANCE WITH BUDGET ACT

SECTION 6.8.(a) Notwithstanding G.S. 12-3.1(a), 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 the Current Operations and Capital Improvements Appropriations Act of 2005 or the House of Representatives Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, which was distributed in the House of Representatives and used to explain this act.

SECTION 6.8.(b) This section expires June 30, 2007.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY/VENDOR FRAUD

SECTION 6.9.(a) G.S. 143-6.2 reads as rewritten:

"§ 143-6.2. Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is

1 not a State agency, department, or institution. For the purposes of this section, "unit of
2 local government" has the meaning set out in G.S. 159-7(15) and "public authority" has
3 the meaning set out in G.S. 159-7(10).

4 (a1) Every non-State entity subject to the provisions of subsection (a) of this
5 section shall file with the State agency or department disbursing funds to the entity a
6 copy of that entity's policy addressing conflicts of interest that may arise involving the
7 entity's management employees and the members of its board of directors or other
8 governing body before funds may be disbursed to the entity. The policy shall address
9 situations in which any of these individuals may directly or indirectly benefit, except as
10 the entity's employees or members of the board or other governing body, from the
11 entity's disbursing of State funds, and shall include actions to be taken by the entity or
12 the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

13 (a2) A vendor of goods or services that receives payment from a State agency or
14 department shall not be required to file a conflict of interest policy with the State agency
15 or department disbursing funds.

16 (b) For the purposes of this section, the term "grantee" means a non-State entity
17 that receives a grant of State funds from a State agency, department, or institution but
18 does not include any non-State entity subject to the audit and other reporting
19 requirements of the Local Government Commission. The term "grantee" shall not
20 include a vendor of goods or services. The term "subgrantee" means a non-State entity
21 that receives a grant of State funds from a grantee or from another subgrantee but does
22 not include any non-State entity subject to the audit and other reporting requirements of
23 the Local Government Commission. The terms "State grant funds" and "State grants" do
24 not include any payment made by the Medicaid program, the Teachers' and State
25 Employees' Comprehensive Major Medical Plan, or other similar medical programs.

26 (c) Compliance by Non-State Entities. – If the Director of the Budget finds that a
27 non-State entity has spent or encumbered State funds for an unauthorized purpose, the
28 Director shall take appropriate administrative action to ensure that no further
29 irregularities occur and shall report to the Attorney General any facts that pertain to an
30 apparent violation of a criminal law or an apparent instance of malfeasance,
31 misfeasance, or nonfeasance in connection with the use of State funds.

32 (c1) Fraud by Vendors. – If the Director of the Budget finds that a vendor of
33 goods or services may have obtained State funds fraudulently, the Director shall report
34 all facts that pertain to the alleged fraud to the Attorney General and to the appropriate
35 local law enforcement authorities.

36 (d) The Office of State Budget and Management shall adopt rules to ensure the
37 uniform administration of State grants by all grantor State agencies and grantees or
38 subgrantees. The rules shall establish policies and procedures for disbursements of
39 grants and for State agency oversight, monitoring, and evaluation of grantees and
40 subgrantees. Such policies and procedures shall:

- 41 (1) Ensure that the purpose and reporting requirements of each grant are
42 specified to the grantee.
- 43 (2) Ensure that grantees specify the purpose and reporting requirements
44 for grants made to subgrantees.
- 45 (3) Ensure that funds are spent in accordance with the purposes for which
46 they were granted.
- 47 (4) Hold the grantees and subgrantees accountable for the legal and
48 appropriate expenditure of State grant funds.
- 49 (5) Provide for adequate oversight and monitoring to prevent the misuse
50 of State funds.
- 51 (6) Establish mandatory periodic reporting requirements for grantees and
52 subgrantees, including methods of reporting, to provide financial and
53 program performance information. The mandatory periodic reporting

1 requirements shall require grantees and subgrantees to file with the
2 State Auditor copies of reports and statements that are filed with State
3 agencies pursuant to this subsection.

4 (7) Require grantees and subgrantees to maintain reports, records, and
5 other information to properly account for the expenditure of all State
6 grant funds and to make such reports, records, and other information
7 available to the grantor State agency for oversight, monitoring, and
8 evaluation purposes.

9 (8) Require grantees and subgrantees to ensure that work papers in the
10 possession of their auditors are available to the State Auditor for the
11 purposes set out in subsection (h) of this section.

12 (9) Require grantees to be responsible for managing and monitoring each
13 project, program, or activity supported by State grant funds and each
14 subgrantee project, program, or activity supported by State grant
15 funds.

16 (10) Provide procedures for the suspension of further disbursements or use
17 of State grant funds for noncompliance with these rules or other
18 inappropriate use of the funds.

19 (11) Provide procedures for use in appropriate circumstances for
20 reinstatement of disbursements that have been suspended for
21 noncompliance with these rules or other inappropriate use of State
22 grant funds.

23 (12) Provide procedures for the recovery and return to the grantor State
24 agency of unexpended State grant funds from a grantee or subgrantee
25 if the grantee or subgrantee is unable to fulfill the purposes of the
26 grant.

27 (13) Require grantees to report their policies addressing conflicts of interest
28 that may arise involving the entity's management employees and the
29 members of its board of directors or other governing body before funds
30 may be disbursed to the entity. The policy shall meet the requirements
31 of subsection (a1) of this section.

32 (e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant
33 to subsection (d) of this section are subject to the provisions of Chapter 150B of the
34 General Statutes.

35 (f) The Office of State Budget and Management shall consult with the Office of
36 the State Auditor and the Attorney General in establishing the rules required by
37 subsection (d) of this section.

38 (g) The Office of State Budget and Management, after consultation with the
39 administering agency, shall have the power to suspend disbursement of State grant
40 funds to grantees or subgrantees, to prevent further use of State grant funds already
41 disbursed, and to recover State grant funds already disbursed for noncompliance with
42 rules adopted pursuant to subsection (d) of this section. If the grant funds are a
43 pass-through of funds granted by an agency of the United States, then the Office of
44 State Budget and Management must consult with the granting agency of the United
45 States and the State agency that is the recipient of the pass-through funds prior to taking
46 the actions authorized by this subsection.

47 (h) Audit Oversight. – The State Auditor has audit oversight, with respect to
48 State grant funds received by the grantee or subgrantee, pursuant to Article 5A of
49 Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses,
50 or expends State grant funds. A grantee or subgrantee must, upon request, furnish to the
51 State Auditor for audit all books, records, and other information necessary for the State
52 Auditor to account fully for the use and expenditure of State grant funds received by the
53 grantee or subgrantee. The grantee or subgrantee must furnish any additional financial

1 or budgetary information requested by the State Auditor, including audit work papers in
 2 the possession of any auditor of a grantee or subgrantee directly related to the use and
 3 expenditure of State grant funds.

4 (i) Not later than May 1, 2007, and by May 1 of every succeeding year, the
 5 Office of State Budget and Management shall report to the Joint Legislative
 6 Commission on Governmental Operations and the Fiscal Research Division on all
 7 grantees or subgrantees that failed to comply with this section during the prior fiscal
 8 year, including the amount of State funds that were disbursed to each of those grantees
 9 or subgrantees during that fiscal year and the amount of State funds that were withheld.

10 (j) Grantor State agencies shall submit a list to the State Auditor, in the format
 11 prescribed by the State Auditor, by October 31 each year of every grantee to which the
 12 agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount
 13 disbursed to each grantee, and other such information as required by the State Auditor
 14 to comply with the requirements set forth in this section.

15 (k) Civil Actions. – Civil actions to recover State funds or to obtain other
 16 mandatory orders in the name of the State on relation of the Attorney General, or in the
 17 name of the Office of State Budget and Management, shall be filed in the General Court
 18 of Justice in Wake County."

19 **SECTION 6.9.(b)** This section applies to non-State entities that receive
 20 State funds on or after July 1, 2005, and State funds shall not be disbursed to those
 21 entities on or after July 1, 2005, until the entity files the policy required by this section
 22 with the disbursing agency or department.
 23

24 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 25 Michaux

26 **NON-STATE ENTITIES SHALL NOT HAVE OUTSTANDING TAX**
 27 **ASSESSMENTS/APPLICABILITY OF REPORTING REQUIREMENTS**

28 **SECTION 6.10.(a)** G.S. 143-6.2 is amended by adding a new subsection to
 29 read:

30 "(c1) No Overdue Tax Debts. – No grantee or subgrantee shall receive a grant of
 31 State funds from a State agency, department, or institution if the grantee or subgrantee
 32 has any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local
 33 level."

34 **SECTION 6.10.(b)** This section shall apply to all State grant funds
 35 appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005,
 36 shall be subject to the reporting requirements in effect at the time the grant was made.
 37

38 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 39 Michaux

40 **INFORMATION TECHNOLOGY FUND AVAILABILITY STATEMENT**

41 **SECTION 6.13.** The availability used to support appropriations made in this
 42 act from the Information Technology Fund established in G.S. 147-33.72H is as
 43 follows:

	FY 2005-2006	FY 2006-2007
44 Receipts from Information Technology		
45 Enterprise Fee (G.S. 147-33.82)	\$5,000,000	\$5,000,000
46		
47		
48 Transfer from June 30, 2005, Information Technology		
49 Services Internal Service Fund cash balance to		
50 support statewide IT initiatives	\$5,000,000	
51		
52 Appropriation from General Fund	\$24,375,000	\$8,025,000
53		

Total Funds Available **\$34,375,000** **\$13,025,000.**

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

INFORMATION TECHNOLOGY APPROPRIATIONS

SECTION 6.14. Appropriations are made from the Information Technology Fund established in G.S. 147-33.72H as follows:

Office of Information Technology Services **FY 2005-2006** **FY 2006-2007**

To establish two project management assistant positions and one enterprise licensing position and to purchase and maintain asset management software and enterprise licenses. \$1,600,000 \$1,400,000

To continue existing activities including project management assistance, security, asset management, legal support, and legacy system assessment. \$5,100,000 \$3,300,000

To provide services previously supported by cross subsidies in the rate structure, including State portal maintenance, security services, enterprise identity management, and office operations. \$6,300,000 \$5,800,000

To facilitate consolidation of information technology services in State agencies. \$500,000

Office of State Controller

To initiate replacement of the State's personnel and payroll systems consistent with the analysis and findings of the Statewide Business Infrastructure study. \$20,875,000 \$2,525,000

Total Appropriation **\$34,375,000** **\$13,025,000**

Funds appropriated under this section are subject to the reporting requirement set out in G.S. 147-33.72H.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

MONITOR AND EVALUATE LEASE PURCHASE ACTIVITY

SECTION 6.17.(a) By December 30, 2005, the Office of State Budget and Management, in consultation with the Office of State Treasurer, the Office of State Controller, and the Department of Administration shall:

- (1) Develop and implement a management process that does all of the following:
 - a. Standardizes the criteria used by executive branch agencies to evaluate the business case for acquisitions by lease purchase.
 - b. Provides for executive branch agency budget submissions that clearly show current and proposed debt service requirements occasioned by existing and proposed lease purchase agreements.
 - c. Provides that all lease purchase agreements entered into by executive branch agencies are centrally inventoried and monitored.

d. Includes debt accruing through lease purchase activity by executive branch agencies in the annual report of the Debt Affordability Advisory Committee required by G.S. 142-101.

e. Evaluates the advantages of a pooled or master lease arrangement.

(2) Prepare a consolidated report summarizing by State agency all lease purchase expenditures in the current fiscal year and all lease purchase expenditures planned for the upcoming fiscal year and submit the report to the Chairs of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research Division on the first day of the 2006 and 2007 Regular Sessions of the General Assembly.

SECTION 6.17.(b) This section does not apply to The University of North Carolina.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

PRIVATE LICENSE PLATES ON PUBLICLY OWNED MOTOR VEHICLES

SECTION 6.18.(a) Section 6.14(b) of S.L. 2001-424 is repealed.

SECTION 6.18.(b) This section becomes effective April 30, 2005.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

UNIFORM PAYROLL SYSTEM

SECTION 6.19. G.S. 143B-426.39 reads as rewritten:

"§ 143B-426.39. Powers and duties of the State Controller.

The State Controller shall:

...
 (6) Operate a central payroll system, in accordance with G.S. 143-3.2 and 143-34.1. Prescribe, develop, operate, and maintain a uniform payroll system, in accordance with G.S. 143-3.2 and G.S. 143-34.1, for all State agencies. This uniform payroll system shall be designed to assure compliance with all legal and constitutional requirements. When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to operate its own payroll system. Any State agency authorized by the State Controller to operate its own payroll system shall comply with the requirements adopted by the State Controller.

...."

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

STUDY STATE CONSTRUCTION INSPECTIONS

SECTION 6.20.(a) There is created the Legislative Study Commission on State Construction Inspections (Commission). The purpose of the study shall be to examine the following:

- (1) The scope and nature of each type of inspection of private and public construction projects performed or required by State agencies.
- (2) The extent to which State inspections overlap with inspections performed by local governments.
- (3) The total cost of the State's inspection of public and private construction projects.

- 1 (4) The comparative efficiencies and efficacies of each type of inspection
 2 of private and public construction projects performed or required by
 3 State agencies to determine whether:
 4 a. The inspections can be combined to save the costs of
 5 administrations and to limit any hardships on public and private
 6 entities engaged in construction projects.
 7 b. Any inspections should be otherwise modified in scope or
 8 eliminated.
 9 (5) The level of training of the various inspectors in the State agencies and
 10 whether the training is satisfactory for the types of inspections
 11 performed.
 12 (6) Any other matter related to increasing the efficiency and efficacy of
 13 the State's inspection of public and private construction projects.

14 **SECTION 6.20.(b)** The Commission shall consist of 14 members appointed
 15 as follows:

- 16 (1) Five voting members appointed by the Speaker of the House of
 17 Representatives.
 18 (2) Five voting members appointed by the President Pro Tempore of the
 19 Senate.
 20 (3) Four nonvoting ex officio members, or their designees, including the
 21 Commissioner of Labor, the Commissioner of Insurance, the Secretary
 22 of Administration, and the Secretary of Health and Human Services.

23 The Speaker of the House of Representatives and the President Pro Tempore
 24 of the Senate shall each appoint a cochair for the Commission. The Commission may
 25 contract for consultant services as provided by G.S. 120-32.02. Upon approval of the
 26 Legislative Services Commission, the Legislative Services Officer shall assign
 27 professional and clerical staff to assist in the work of the Commission. Clerical staff
 28 shall be furnished to the Commission through the offices of the House of
 29 Representatives and the Senate Directors of Legislative Assistants. The Commission
 30 may meet in the Legislative Building or the Legislative Office Building upon the
 31 approval of the Legislative Services Commission. Members of the Commission shall
 32 receive per diem, subsistence, and travel allowances at the rate established in
 33 G.S. 120-3.1. The appointing authority shall fill vacancies.

34 The Commission, while in the discharge of its official duties, may exercise all
 35 the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4,
 36 including the power to request all officers, agents, agencies, and departments of the
 37 State to provide any information, data, or documents within their possession,
 38 ascertainable from their records, or otherwise available to them, and the power to
 39 subpoena witnesses.

40 **SECTION 6.20.(c)** By May 1, 2006, the Commission shall report its
 41 findings, conclusions, and recommendations, including any legislative proposals, to the
 42 General Assembly. The Commission shall expire upon filing its final report.

43
 44 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 45 Michaux, Gibson

46 **CLEAN WATER MANAGEMENT TRUST FUND BOARD OF**
 47 **TRUSTEES/STUDY STEWARDSHIP OF CONSERVATION EASEMENTS**

48 **SECTION 6.22.** The Clean Water Management Trust Fund Board of
 49 Trustees shall study management and stewardship of conservation easements. The
 50 Board shall report its findings and any recommendations to the Environmental Review
 51 Commission by December 1, 2005.
 52

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux

3 **COMMISSION ON STATE PROPERTY FUNDS**

4 **SECTION 6.23.** Of the funds appropriated to the Department of
5 Administration for the 2005-2006 fiscal year, the Director of the Budget shall transfer
6 two hundred thousand dollars (\$200,000) to the Commission on State Property
7 established in Article 78 of Chapter 143 of the General Statutes.

8
9 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
10 Michaux, Insko

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

15 **SECTION 6.24.(a)** Department of Public Instruction. –

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

- 28 a. The development of a strong infrastructure of interagency
29 collaboration;
- 30 b. One child, one team, one plan;
- 31 c. Individualized strengths-based care;
- 32 d. Accountability;
- 33 e. Cultural competence;
- 34 f. Children at risk of school failure or out-of-home placement may
35 enter the system through any participating agency;
- 36 g. Services shall be specified, delivered, and monitored through a
37 unified Child and Family Plan that is outcome-oriented and
38 evaluation-based;
- 39 h. Services shall be the most efficient in terms of cost and
40 effectiveness and shall be delivered in the most natural settings
41 possible;
- 42 i. Out-of-home placements for children shall be a last resort and
43 shall include concrete plans to bring the children back to a
44 stable, permanent home, their schools, and their community;
45 and
- 46 j. Families and consumers shall be involved in decision making
47 throughout service planning, delivery, and monitoring.

48 (2) Local level responsibilities. – In coordination with the North Carolina
49 Child and Family Leadership Council (Council), the local board of
50 education shall establish the School-Based Child and Family Team
51 Initiative (Initiative) at designated schools and shall appoint the Child
52 and Family Team Leaders who shall be a school nurse and a school
53 social worker. Each local management entity that has any selected

1 schools in its catchment area shall appoint a Care Coordinator, and any
2 Department of Social Services that has a selected school in its
3 catchment area shall appoint a Child and Family Teams Facilitator.
4 The Care Coordinators and Child and Family Team Facilitators shall
5 have as their sole responsibility working with the selected schools in
6 their catchment areas and shall provide training to school-based
7 personnel, as required. The Child and Family Team Leaders shall
8 identify and screen children who are potentially at risk of academic
9 failure or out-of-home placement due to physical, social, legal,
10 emotional, or developmental factors. Based on the screening results,
11 responsibility for developing, convening, and implementing the Child
12 and Family Team is as follows:

- 13 a. School personnel shall take the lead role for those children and
14 their families whose primary unmet needs are related to
15 academic achievement.
- 16 b. The local management entity shall take the lead role for those
17 children and their families whose primary unmet needs are
18 related to mental health, substance abuse, and/or developmental
19 disabilities and who meet the criteria for the target population
20 established by the Division of Mental Health, Developmental
21 Disabilities, and Substance Abuse Services.
- 22 c. The local Department of Public Health shall take the lead role
23 for those children and their families whose primary unmet
24 needs are health-related.
- 25 d. The Department of Social Services Facilitator shall take the
26 lead for those children and their families whose primary unmet
27 needs are related to child welfare, abuse, or neglect.
- 28 e. A representative from the district court or juvenile justice shall
29 take the lead for those children and their families whose
30 primary unmet needs are related to community safety or legal
31 issues.

32 A representative from each agency shall participate as a member of
33 the Team as needed. Team members shall coordinate, monitor, and
34 assure the successful implementation of a unified Child and Family
35 Plan.

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

- 40 a. The number of and other demographic information on children
41 served;
- 42 b. The amount and source of funds expended to implement the
43 Initiative;
- 44 c. Information on how families and consumers are involved in
45 decision making throughout service planning, delivery, and
46 monitoring;
- 47 d. Information on the number of children screened, the number of
48 children assigned to a Team, and the service needs of the
49 children served;
- 50 e. Information on the placement of children in programs or
51 facilities outside the child's home and outside the child's county
52 and the average length of stay in residential treatment,
53 transition, and return to home;

- 1 f. The number of children diverted from institutions, other
2 out-of-home placements, or from the custody of the department
3 of social services because of unmet behavioral health needs;
4 g. A description of the services provided;
5 h. Other information as required by the Council to evaluate
6 success in local programs and ensure appropriate outcomes; and
7 i. Recommendations on needed improvements.
- 8 (4) Local Advisory Committee. – In each county with a participating
9 school, a Local Child and Family Team Advisory Committee shall be
10 chaired by the superintendent of the local LEA and the head of a
11 participating county agency as elected by the Committee. The
12 Committee shall include the directors of the county departments of
13 social services and health, the directors of the local management
14 entity, the chief district court judge, the chief court counselor, and
15 representatives of other agencies providing services to children, as
16 designated by the Committee. The members of the Committee shall
17 meet as needed to monitor and support the successful implementation
18 of the School-Based Child and Family Team Initiative.

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

22 **SECTION 6.24.(b)** Department of Administration.

- 23 (1) North Carolina Child and Family Leadership Council established. –
24 There is established the North Carolina Child and Family Leadership
25 Council (Council). The Council shall be located within the Department
26 of Administration for organizational and budgetary purposes.
- 27 (2) Purpose. – The purpose of the Council is to review and advise the
28 Governor in the development of the School-Based Child and Family
29 Teams Initiative and to ensure the active participation and
30 collaboration in the Initiative by all State agencies and their local
31 counterparts providing services to children in order to increase the
32 academic success and reduce out-of-home and out-of-county
33 placements of children at risk of academic failure.
- 34 (3) Membership. – The Superintendent of Public Instruction and the
35 Secretary of Health and Human Services shall serve as cochairs of the
36 Council. Council membership shall include the Secretary of the
37 Department of Juvenile Justice and Delinquency Prevention, the
38 Director of the Administrative Office of the Courts, and other
39 members as appointed by the Governor.
- 40 (4) The Council may:
- 41 a. As needed, sign an annual memorandum of agreement (MOA)
42 among the named State agencies to define the purposes of the
43 program and to ensure that program goals are accomplished.
- 44 b. As needed, recommend a local MOA to be signed annually by
45 the superintendent of the local LEA, the directors of the county
46 departments of social services and health, the directors of the
47 local management entity, the chief district court judge, the chief
48 court counselor.
- 49 c. Increase capacity in the school setting to address the needs of
50 children in need of academic, health, mental health, social, and
51 legal services.

- 1 d. Resolve State policy issues, as identified at the local level,
- 2 which interfere with effective implementation of the Child and
- 3 Family Team Initiative.
- 4 e. Direct the integration of resources as needed to meet goals and
- 5 ensure that the Initiative promotes the most effective and
- 6 efficient use of resources and eliminates duplication of effort.
- 7 f. Ensure that children receiving services are screened initially to
- 8 identify needs and assessed periodically to determine progress
- 9 and sustained improvement in educational, health, safety,
- 10 behavioral, and social outcomes.
- 11 g. Establish criteria for defining success in local programs and
- 12 ensure appropriate outcomes.
- 13 h. Develop an evaluation process based on expected outcomes to
- 14 ensure the goals and objectives of this initiative are achieved.
- 15 i. Review progress made on integrating policies and resources
- 16 across State agencies, reaching expected outcomes, and
- 17 accomplishing other goals.
- 18 j. Report semiannually on progress made to the Office of the
- 19 Governor and the General Assembly.

20 The Council may designate existing cross-agency collaboratives or
 21 councils as working groups or to provide assistance in accomplishing
 22 established goals.

- 23 (5) Program services. – In order to ensure that children receiving services
- 24 are appropriately served, the affected State and local agencies shall:
- 25 a. Provide only those services that are known to be effective based
- 26 upon research or national standards of best practices.
- 27 b. Develop uniform screening mechanisms and a set of outcomes
- 28 that are shared across affected State agencies to measure
- 29 children's progress in home, school, and community settings.
- 30 c. Review services provided across affected State agencies to
- 31 ensure that children's needs are met.
- 32 d. Eliminate cost shifting and facilitate cost-sharing among
- 33 governmental agencies with respect to service development,
- 34 service delivery, and monitoring for participating children and
- 35 their families.

36 **SECTION 6.24.(c)** Department of Health and Human Services. – The
 37 Secretary of the Department of Health and Human Services shall ensure that all
 38 agencies within the Department collaborate in the development and implementation of
 39 the School-Based Child and Family Team Initiative and provide all required support to
 40 ensure that the Initiative is successful.

41 **SECTION 6.24.(d)** Department of Juvenile Justice and Delinquency
 42 Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency
 43 Prevention shall ensure that all agencies within the Department collaborate in the
 44 development and implementation of the School-Based Child and Family Team Initiative
 45 and provide all required support to ensure that the Initiative is successful.

46
 47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 48 Michaux

49 **LIMIT SALE OF DOROTHEA DIX AND BLUE RIDGE ROAD PROPERTIES**

50 **SECTION 6.25.** G.S. 146-27 reads as rewritten:

51 "**§ 146-27. The role of the Department of Administration in sales, leases, and**
 52 **rentals; rentals; approval by General Assembly.**"

1 (a) General. —~~Every~~ Except as otherwise provided by this section, every sale,
2 lease, rental, or gift of land owned by the State or by any State agency shall be made by
3 the Department of Administration and approved by the Governor and Council of State.
4 A lease or rental of land owned by the State may not exceed a period of 99 years. The
5 Department of Administration may initiate proceedings for sales, leases, rentals, and
6 gifts of land owned by the State or by any State agency.

7 (b) Large Disposition. – If a proposed disposition is a sale or gift of land with an
8 appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall
9 not be made until after consultation with the Joint Legislative Commission on
10 Governmental Operations.

11 (c) Exceptions. – Notwithstanding any other provision of law, the following
12 State-owned property shall not be sold without the prior approval of the General
13 Assembly:

14 (1) The property encompassing the Dorothea Dix Hospital campus.

15 (2) The property described in the 1995 Capital Area Master Plan for State
16 Government, Blue Ridge Road Area, developed by O'Brien/Atkins,
17 except for the Special Development District."
18

19 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
20 Michaux

21 **AHEC STUDY/HORACE WILLIAMS AIRPORT**

22 **SECTION 6.26.** The Legislative Research Commission shall study the
23 continued viability of the Area Health Education Centers (AHEC) program if the
24 Horace Williams Airport is not available and report its findings to the General
25 Assembly no later than the reconvening of the 2005 Regular Session of the General
26 Assembly in 2006. In conducting the study, the Legislative Research Commission
27 should invite all physicians and pilots frequently participating in the AHEC program to
28 appear before the Commission.

29 The University of North Carolina at Chapel Hill shall operate the Horace
30 Williams Airport and continue air transportation support for the AHEC program and the
31 public from that location until 30 days after sine die adjournment of the 2005 Regular
32 Session of the General Assembly.
33

34 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
35 Michaux

36 **NO FUNDS BUDGETED FOR REPLACED EQUIPMENT**

37 **SECTION 6.27.** Once a State agency has purchased and installed equipment
38 that performs the same function as equipment it leases, the agency shall not continue to
39 budget funds for leased equipment that it no longer needs.
40

41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux

43 **RIGHT OF INSURED TO REDEEM HEALTH CARE OR PRESCRIPTION** 44 **DRUG BENEFIT.**

45 **SECTION 6.28.** G.S. 58-50-30 is amended by adding the following new
46 subsection to read:

47 "(g1) An insured beneficiary under a health benefit plan shall have the right to
48 redeem a health care or prescription drug benefit at any provider or pharmacy. The
49 insurer, third-party administrator, or any other entity providing a health care or
50 prescription drug benefit for the insurer shall redeem the health care or prescription drug
51 benefit and reimburse the provider or pharmacy in the same manner, to the same extent,
52 at the same rate, and on the same payment schedule as the insurer, third-party

1 administrator, or other entity would to a provider or pharmacy that is a party to a
2 provider or pharmacy provider contract."

3
4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

6 **HEALTH BENEFIT PLAN CO-PAYMENTS**

7 **SECTION 6.29.** G.S. 58-50-30(a3) reads as rewritten:

8 "(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance
9 issued by a health maintenance organization, hospital or medical service corporation, or
10 insurer governed by Articles 1 through 67 of this Chapter provides coverage for
11 medically necessary treatment, the insurer shall not impose any limitation on treatment
12 or levels of coverage if performed by a duly licensed chiropractor acting within the
13 scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable
14 limitation is imposed on the medically necessary treatment if performed or authorized
15 by any other duly licensed physician. An insurer shall not impose as a limitation on
16 treatment or level of coverage a co-payment amount charged to the insured for
17 chiropractic services that is higher than the co-payment amount charged to the insured
18 for the services of a duly licensed primary care physician for the same medically
19 necessary treatment or condition."

20
21 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
22 Michaux

23 **TRAINING RETIREMENT SYSTEMS DIVISION PERSONNEL**

24 **SECTION 6.30.** Of the funds appropriated from the General Fund to the
25 Department of State Treasurer, Retirement Systems Division, the sum of up to one
26 hundred twenty-eight thousand three hundred fifty dollars (\$128,350) may be used in
27 each year of the 2005-2007 fiscal biennium to provide training for Retirement Systems
28 Division employees to meet the increasing demands on the Retirement Systems due to
29 record retirements of public employees over the next 17 years. The Division shall report
30 annually to the General Assembly on the training that has been provided to its staff to
31 meet these increasing demands.

32
33 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
34 Michaux

35 **AMEND THE TOBACCO RESERVE FUND TO PROMOTE THE HEALTH**
36 **AND WELLNESS OF THE STATE'S CITIZENS AND ECONOMIC**
37 **DEVELOPMENT**

38 **SECTION 6.32.(a)** G.S. 66-291(b)(2) reads as rewritten:

39 "(2) To the extent that a tobacco product manufacturer establishes that the
40 amount it was required to place into escrow on account of units sold in
41 the State in a particular year was greater than the State's allocable
42 share of the total payments that such manufacturer would have been
43 required to make in that year under the Master Settlement Agreement
44 (as determined pursuant to section IX(i)(2) of the Master Settlement
45 Agreement, and before any of the adjustments or offsets described in
46 section IX(i)(3) of that Agreement other than the Inflation
47 Adjustment)the Master Settlement Agreement payments, as
48 determined pursuant to Section IX(i) of that agreement, including after
49 final determination of all adjustments, that the manufacturer would
50 have been required to make on account of the units sold had it been a
51 participating manufacturer, the excess shall be released from escrow
52 and revert back to such tobacco product manufacturer; or"

SECTION 6.32.(b) If this section, or any portion of the amendment made to G.S. 66-291(b)(2) by this section, is held by a court of competent jurisdiction to be unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety. If G.S. 66-291(b)(2) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this section shall be repealed, and G.S. 66-291(b)(2) shall be restored as if no amendments had been made by this section. Neither any judicial holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or invalidate any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes or the application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any other person or circumstance, and the remaining portions of Part 1 of Article 37 of Chapter 66 of the General Statutes shall at all times continue in full force and effect.

SECTION 6.32.(c) This section becomes effective October 1, 2006.

PART VII. PUBLIC SCHOOLS

Requested by: Representatives Jeffus, Tolson, Yongue

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2005-2006 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

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

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2005-2006 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

2005-2006 Monthly Salary Schedule
"A" Teachers

<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,558	N/A
1	\$2,600	N/A
2	\$2,644	N/A
3	\$2,800	\$3,136
4	\$2,941	\$3,294
5	\$3,075	\$3,444
6	\$3,204	\$3,588
7	\$3,308	\$3,705
8	\$3,356	\$3,759
9	\$3,406	\$3,815
10	\$3,456	\$3,871
11	\$3,505	\$3,926
12	\$3,557	\$3,984
13	\$3,607	\$4,040
14	\$3,660	\$4,099
15	\$3,715	\$4,161
16	\$3,770	\$4,222

1	17	\$3,825	\$4,284
2	18	\$3,884	\$4,350
3	19	\$3,942	\$4,415
4	20	\$4,000	\$4,480
5	21	\$4,063	\$4,551
6	22	\$4,124	\$4,619
7	23	\$4,189	\$4,692
8	24	\$4,254	\$4,764
9	25	\$4,319	\$4,837
10	26	\$4,386	\$4,912
11	27	\$4,454	\$4,988
12	28	\$4,524	\$5,067
13	29	\$4,596	\$5,148

2005-2006 Monthly Salary Schedule
"M" Teachers

	<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>
21			
22	0	\$2,814	N/A
23	1	\$2,860	N/A
24	2	\$2,908	N/A
25	3	\$3,080	\$3,450
26	4	\$3,235	\$3,623
27	5	\$3,383	\$3,789
28	6	\$3,524	\$3,947
29	7	\$3,639	\$4,076
30	8	\$3,692	\$4,135
31	9	\$3,747	\$4,197
32	10	\$3,802	\$4,258
33	11	\$3,856	\$4,319
34	12	\$3,913	\$4,383
35	13	\$3,968	\$4,444
36	14	\$4,026	\$4,509
37	15	\$4,087	\$4,577
38	16	\$4,147	\$4,645
39	17	\$4,208	\$4,713
40	18	\$4,272	\$4,785
41	19	\$4,336	\$4,856
42	20	\$4,400	\$4,928
43	21	\$4,469	\$5,005
44	22	\$4,536	\$5,080
45	23	\$4,608	\$5,161
46	24	\$4,679	\$5,240
47	25	\$4,751	\$5,321
48	26	\$4,825	\$5,404
49	27	\$4,899	\$5,487
50	28	\$4,976	\$5,573
51	29	\$5,056	\$5,663
52			

1 **SECTION 7.1.(c)** Annual longevity payments for teachers shall be at the
2 rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State
3 service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19
4 years of State service, three and twenty-five hundredths percent (3.25%) of base salary
5 for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary
6 for 25 or more years of State service. The longevity payment shall be paid in a lump
7 sum once a year.

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

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

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

31 **SECTION 7.1.(f)** Speech pathologists who are certified as speech
32 pathologists at the masters degree level and audiologists who are certified as
33 audiologists at the masters degree level and who are employed in the public schools as
34 speech and language specialists and audiologists shall be paid on the school
35 psychologist salary schedule.

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

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

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

47
48 Requested by: Representatives Jeffus, Tolson, Yongue

49 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

50 **SECTION 7.2.(a)** Effective for the 2005-2006 school year, the Director of
51 the Budget shall transfer from the Reserve for Compensation Increases funds necessary
52 to implement the salary schedules for school-based administrators as provided in this
53 section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2005-2006 fiscal year, commencing July 1, 2005, is as follows:

2005-2006
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	3,267	-	-	-	-
5	3,417	-	-	-	-
6	3,559	-	-	-	-
7	3,675	-	-	-	-
8	3,728	3,728	-	-	-
9	3,783	3,783	-	-	-
10	3,839	3,839	3,895	-	-
11	3,895	3,895	3,951	-	-
12	3,951	3,951	4,007	4,066	-
13	4,007	4,007	4,066	4,127	4,187
14	4,066	4,066	4,127	4,187	4,251
15	4,127	4,127	4,187	4,251	4,314
16	4,187	4,187	4,251	4,314	4,379
17	4,251	4,251	4,314	4,379	4,445
18	4,314	4,314	4,379	4,445	4,514
19	4,379	4,379	4,445	4,514	4,582
20	4,445	4,445	4,514	4,582	4,654
21	4,514	4,514	4,582	4,654	4,726
22	4,582	4,582	4,654	4,726	4,798
23	4,654	4,654	4,726	4,798	4,872
24	4,726	4,726	4,798	4,872	4,949
25	4,798	4,798	4,872	4,949	5,027
26	4,872	4,872	4,949	5,027	5,107
27	4,949	4,949	5,027	5,107	5,209
28	5,027	5,027	5,107	5,209	5,313
29	5,107	5,107	5,209	5,313	5,419
30	5,209	5,209	5,313	5,419	5,527
31	5,313	5,313	5,419	5,527	5,638
32	-	5,419	5,527	5,638	5,751
33	-	-	5,638	5,751	5,866
34	-	-	5,751	5,866	5,983
35	-	-	-	5,983	6,103
36	-	-	-	6,103	6,225
37	-	-	-	-	6,350

2005-2006
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	PrinV (44-54)	PrinVI (55-65)	PrinVII (66-100)	PrinVIII (101+)
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1	0-14	4,314	-	-	-
2	15	4,379	-	-	-
3	16	4,445	4,514	-	-
4	17	4,514	4,582	4,726	-
5	18	4,582	4,654	4,798	4,872
6	19	4,654	4,726	4,872	4,949
7	20	4,726	4,798	4,949	5,027
8	21	4,798	4,872	5,027	5,107
9	22	4,872	4,949	5,107	5,209
10	23	4,949	5,027	5,209	5,313
11	24	5,027	5,107	5,313	5,419
12	25	5,107	5,209	5,419	5,527
13	26	5,209	5,313	5,527	5,638
14	27	5,313	5,419	5,638	5,751
15	28	5,419	5,527	5,751	5,866
16	29	5,527	5,638	5,866	5,983
17	30	5,638	5,751	5,983	6,103
18	31	5,751	5,866	6,103	6,225
19	32	5,866	5,983	6,225	6,350
20	33	5,983	6,103	6,350	6,477
21	34	6,103	6,225	6,477	6,607
22	35	6,225	6,350	6,607	6,739
23	36	6,350	6,477	6,739	6,874
24	37	6,477	6,607	6,874	7,011
25	38	6,607	6,739	7,011	7,151
26	39	-	6,874	7,151	7,294
27	40	-	7,011	7,294	7,440
28	41	-	-	7,440	7,589

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

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

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

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

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

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

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

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

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

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

30 **SECTION 7.2.(h)** Participants in an approved full-time masters in school
 31 administration program shall receive up to a 10-month stipend at the beginning salary of
 32 an assistant principal during the internship period of the masters program. For the
 33 2005-2006 fiscal year and subsequent fiscal years, the stipend shall not exceed the
 34 difference between the beginning salary of an assistant principal and any fellowship
 35 funds received by the intern as a full-time student, including awards of the Principal
 36 Fellows Program. The Principal Fellows Program or the school of education where the
 37 intern participates in a full-time masters in school administration program shall supply
 38 the Department of Public Instruction with certification of eligible full-time interns.

39 **SECTION 7.2.(i)** During the 2005-2006 fiscal year, the placement on the
 40 salary schedule of an administrator with a one-year provisional assistant principal's
 41 certificate shall be at the entry-level salary for an assistant principal or the appropriate
 42 step on the teacher salary schedule, whichever is higher.

43
 44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **CENTRAL OFFICE SALARIES**

46 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
 47 superintendents, associate superintendents, directors/coordinators, supervisors, and
 48 finance officers for the 2005-2006 fiscal year, beginning July 1, 2005.

49	School Administrator I	\$2,932	\$5,533
50	School Administrator II	\$3,112	\$5,869
51	School Administrator III	\$3,303	\$6,225
52	School Administrator IV	\$3,436	\$6,474
53	School Administrator V	\$3,574	\$6,735

1	School Administrator VI	\$3,792	\$7,143
2	School Administrator VII	\$3,945	\$7,430

3 The local board of education shall determine the appropriate category and
4 placement for each assistant superintendent, associate superintendent,
5 director/coordinator, supervisor, or finance officer within the salary ranges and within
6 funds appropriated by the General Assembly for central office administrators and
7 superintendents. The category in which an employee is placed shall be included in the
8 contract of any employee.

9 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
10 school superintendents for the 2005-2006 fiscal year, beginning July 1, 2005.

11	Superintendent I	\$4,187	\$7,883
12	Superintendent II	\$4,445	\$8,359
13	Superintendent III	\$4,716	\$8,868
14	Superintendent IV	\$5,005	\$9,406
15	Superintendent V	\$5,312	\$9,980

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

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

23 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
24 superintendents, directors/coordinators, supervisors, and finance officers with
25 certification based on academic preparation at the six-year degree level shall receive a
26 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
27 the compensation provided pursuant to this section. Superintendents, assistant
28 superintendents, associate superintendents, directors/coordinators, supervisors, and
29 finance officers with certification based on academic preparation at the doctoral degree
30 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
31 month in addition to the compensation provided for under this section.

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

35 **SECTION 7.3.(f)** The annual salary increase for all permanent full-time
36 personnel paid from the Central Office Allotment shall be the greater of five hundred
37 dollars (\$500.00) or two and one-half percent (2.5%), commencing July 1, 2005. The
38 State Board of Education shall allocate these funds to local school administrative units.
39 The local boards of education shall establish guidelines for providing salary increases to
40 these personnel.

41
42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **NONCERTIFIED PERSONNEL SALARY**

44 **SECTION 7.4.(a)** The annual salary increase for permanent, full-time
45 noncertified public school employees whose salaries are supported from the State's
46 General Fund shall be the greater of five hundred dollars (\$500.00) or two and one-half
47 percent (2.5%), commencing July 1, 2005.

48 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
49 for such employees who were employed for all or part of fiscal year 2004-2005 and who
50 continue their employment for fiscal year 2005-2006 by providing an annual salary
51 increase for employees of the greater of five hundred dollars (\$500.00) or two and
52 one-half percent (2.5%).

1 For part-time employees, the pay increase shall be pro rata based on the
2 number of hours worked.

3 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
4 noncertified personnel to support increases of the greater of five hundred dollars
5 (\$500.00) or two and one-half percent (2.5%) for the 2005-2006 fiscal year.

6
7 Requested by: Representatives Jeffus, Tolson, Yongue

8 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY**
9 **SCHEDULES**

10 **SECTION 7.5.** Effective July 1, 2005, any permanent certified personnel
11 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of
12 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
13 29 year steps. Effective July 1, 2005, any permanent personnel employed on July 1,
14 2004, and paid at the top of the principal and assistant principal salary schedule shall
15 receive a one-time bonus equivalent to two percent (2%).

16 For permanent part-time personnel, the one-time bonus shall be adjusted pro
17 rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the
18 bonus.

19
20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

22 **SECTION 7.6.(a)** Funds for Supplemental Funding. – The General
23 Assembly finds that it is appropriate to provide supplemental funds in low-wealth
24 counties to allow those counties to enhance the instructional program and student
25 achievement. Therefore, funds are appropriated to State Aid to Local School
26 Administrative Units for the 2005-2006 fiscal year and the 2006-2007 fiscal year to be
27 used for supplemental funds for the schools.

28 **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds
29 received pursuant to this section shall be used only: (i) to provide instructional
30 positions, instructional support positions, teacher assistant positions, clerical positions,
31 school computer technicians, instructional supplies and equipment, staff development,
32 and textbooks; (ii) for salary supplements for instructional personnel and instructional
33 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars
34 (\$10,000) of the plant operation contract cost charged by the Department of Public
35 Instruction for services.

36 Local boards of education are encouraged to use at least twenty-five percent
37 (25%) of the funds received pursuant to this section to improve the academic
38 performance of children who are performing at Level I or II on either reading or
39 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level
40 I or II on the writing tests in grades 4 and 7. Local boards of education shall report to
41 the State Board of Education on an annual basis on funds used for this purpose, and the
42 State Board shall report this information to the Joint Legislative Education Oversight
43 Committee. These reports shall specify how these funds were targeted and used to
44 implement specific improvement strategies of each local school administrative unit and
45 its schools, such as teacher recruitment, closing the achievement gap, improving student
46 accountability, addressing the needs of at-risk students, and establishing and
47 maintaining safe schools.

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

- 49 (1) "Anticipated county property tax revenue availability" means the
50 county-adjusted property tax base multiplied by the effective State
51 average tax rate.
52 (2) "Anticipated total county revenue availability" means the sum of the:
53 a. Anticipated county property tax revenue availability,

- 1 b. Local sales and use taxes received by the county that are levied
2 under Chapter 1096 of the 1967 Session Laws or under
3 Subchapter VIII of Chapter 105 of the General Statutes,
4 c. Sales tax hold harmless reimbursement received by the county
5 under G.S. 105-521, and
6 d. Fines and forfeitures deposited in the county school fund for the
7 most recent year for which data are available.
- 8 (3) "Anticipated total county revenue availability per student" means the
9 anticipated total county revenue availability for the county divided by
10 the average daily membership of the county.
- 11 (4) "Anticipated State average revenue availability per student" means the
12 sum of all anticipated total county revenue availability divided by the
13 average daily membership for the State.
- 14 (5) "Average daily membership" means average daily membership as
15 defined in the North Carolina Public Schools Allotment Policy
16 Manual, adopted by the State Board of Education. If a county contains
17 only part of a local school administrative unit, the average daily
18 membership of that county includes all students who reside within the
19 county and attend that local school administrative unit.
- 20 (6) "County-adjusted property tax base" shall be computed as follows:
21 a. Subtract the present-use value of agricultural land, horticultural
22 land, and forestland in the county, as defined in G.S. 105-277.2,
23 from the total assessed real property valuation of the county,
24 b. Adjust the resulting amount by multiplying by a weighted
25 average of the three most recent annual sales assessment ratio
26 studies,
27 c. Add to the resulting amount the:
28 1. Present-use value of agricultural land, horticultural land,
29 and forestland, as defined in G.S. 105-277.2,
30 2. Value of property of public service companies,
31 determined in accordance with Article 23 of Chapter 105
32 of the General Statutes, and
33 3. Personal property value for the county.
- 34 (7) "County-adjusted property tax base per square mile" means the
35 county-adjusted property tax base divided by the number of square
36 miles of land area in the county.
- 37 (8) "County wealth as a percentage of State average wealth" shall be
38 computed as follows:
39 a. Compute the percentage that the county per capita income is of
40 the State per capita income and weight the resulting percentage
41 by a factor of five-tenths,
42 b. Compute the percentage that the anticipated total county
43 revenue availability per student is of the anticipated State
44 average revenue availability per student and weight the
45 resulting percentage by a factor of four-tenths,
46 c. Compute the percentage that the county-adjusted property tax
47 base per square mile is of the State-adjusted property tax base
48 per square mile and weight the resulting percentage by a factor
49 of one-tenth,
50 d. Add the three weighted percentages to derive the county wealth
51 as a percentage of the State average wealth.

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

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

41 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection
42 (g) of this section, the amount received per average daily membership for a county shall
43 be the difference between the State average current expense appropriations per student
44 and the current expense appropriations per student that the county could provide given
45 the county's wealth and an average effort to fund public schools. (To derive the current
46 expense appropriations per student that the county could be able to provide given the
47 county's wealth and an average effort to fund public schools, multiply the county wealth
48 as a percentage of State average wealth by the State average current expense
49 appropriations per student.)

50 The funds for the local school administrative units located in whole or in part
51 in the county shall be allocated to each local school administrative unit located in whole
52 or in part in the county based on the average daily membership of the county's students
53 in the school units.

1 If the funds appropriated for supplemental funding are not adequate to fund
2 the formula fully, each local school administrative unit shall receive a pro rata share of
3 the funds appropriated for supplemental funding.

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

10 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective
11 tax rates in the 1996-1997 fiscal year that were above the State average effective tax
12 rate but that had effective rates below the State average in the 1997-1998 fiscal year or
13 thereafter shall receive reduced funding under this section. This reduction in funding
14 shall be determined by subtracting the amount that the county would have received
15 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount
16 that the county would have received if qualified for full funding and multiplying the
17 difference by ten percent (10%). This method of calculating reduced funding shall
18 apply one time only.

19 This method of calculating reduced funding shall not apply in cases in which
20 the effective tax rate fell below the statewide average effective tax rate as a result of a
21 reduction in the actual property tax rate. In these cases, the minimum effort required
22 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995
23 Session Laws.

24 If the county documents that it has increased the per student appropriation to
25 the school current expense fund in the current fiscal year, the State Board of Education
26 shall include this additional per pupil appropriation when calculating minimum effort
27 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

28 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local
29 school administrative unit receives funds under this section shall use the funds to
30 supplement local current expense funds and shall not supplant local current expense
31 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
32 allocate funds under this section to a county found to have used these funds to supplant
33 local per student current expense funds. The State Board of Education shall make a
34 finding that a county has used these funds to supplant local current expense funds in the
35 prior year, or the year for which the most recent data are available, if:

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

44 The State Board of Education shall adopt rules to implement this section.

45 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the
46 Joint Legislative Education Oversight Committee prior to May 1, 2006, if it determines
47 that counties have supplanted funds.

48 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of
49 Revenue shall provide to the Department of Public Instruction a preliminary report for
50 the current fiscal year of the assessed value of the property tax base for each county
51 prior to March 1 of each year and a final report prior to May 1 of each year. The reports
52 shall include for each county the annual sales assessment ratio and the taxable values of
53 (i) total real property, (ii) the portion of total real property represented by the

1 present-use value of agricultural land, horticultural land, and forestland as defined in
2 G.S. 105-277.2, (iii) property of public service companies determined in accordance
3 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.
4

5 Requested by: Representatives Jeffus, Tolson, Yongue

6 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

7 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in
8 subsection (b) of this section, the State Board of Education shall allocate funds
9 appropriated for small school system supplemental funding (i) to each county school
10 administrative unit with an average daily membership of fewer than 3,175 students and
11 (ii) to each county school administrative unit with an average daily membership from
12 3,175 to 4,000 students if the county in which the local school administrative unit is
13 located has a county-adjusted property tax base per student that is below the
14 State-adjusted property tax base per student and if the total average daily membership of
15 all local school administrative units located within the county is from 3,175 to 4,000
16 students. The allocation formula shall:

- 17 (1) Round all fractions of positions to the next whole position.
- 18 (2) Provide five and one-half additional regular classroom teachers in
19 counties in which the average daily membership per square mile is
20 greater than four, and seven additional regular classroom teachers in
21 counties in which the average daily membership per square mile is
22 four or fewer.
- 23 (3) Provide additional program enhancement teachers adequate to offer
24 the standard course of study.
- 25 (4) Change the duty-free period allocation to one teacher assistant per 400
26 average daily membership.
- 27 (5) Provide a base for the consolidated funds allotment of at least seven
28 hundred forty thousand seventy-four dollars (\$740,074), excluding
29 textbooks for the 2005-2006 fiscal year and a base of seven hundred
30 forty thousand seventy-four dollars (\$740,074) for the 2006-2007
31 fiscal year.
- 32 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

33 If funds appropriated for each fiscal year for small school system
34 supplemental funding are not adequate to fully fund the program, the State Board of
35 Education shall reduce the amount allocated to each county school administrative unit
36 on a pro rata basis. This formula is solely a basis for distribution of supplemental
37 funding for certain county school administrative units and is not intended to reflect any
38 measure of the adequacy of the educational program or funding for public schools. The
39 formula is also not intended to reflect any commitment by the General Assembly to
40 appropriate any additional supplemental funds for such county administrative units.

41 **SECTION 7.7.(b)** Nonsupplant Requirement. – A county in which a local
42 school administrative unit receives funds under this section shall use the funds to
43 supplement local current expense funds and shall not supplant local current expense
44 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
45 allocate funds under this section to a county found to have used these funds to supplant
46 local per student current expense funds. The State Board of Education shall make a
47 finding that a county has used these funds to supplant local current expense funds in the
48 prior year, or the year for which the most recent data are available, if:

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

- 1 (2) The county cannot show: (i) that it has remedied the deficiency in
2 funding or (ii) that extraordinary circumstances caused the county to
3 supplant local current expense funds with funds allocated under this
4 section.

5 The State Board of Education shall adopt rules to implement this section.

6 **SECTION 7.7.(c)** Phase-Out Provisions. – If a local school administrative
7 unit becomes ineligible for funding under this formula solely because of an increase in
8 the county-adjusted property tax base per student of the county in which the local school
9 administrative unit is located, funding for that unit shall be phased out over a two-year
10 period. For the first year of ineligibility, the unit shall receive the same amount it
11 received for the prior fiscal year. For the second year of ineligibility, it shall receive
12 one-half of that amount.

13 If a local school administrative unit becomes ineligible for funding under this
14 formula solely because of an increase in the population of the county in which the local
15 school administrative unit is located, funding for that unit shall be continued for five
16 years after the unit becomes ineligible.

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

- 18 (1) "Average daily membership" means within two percent (2%) of the
19 average daily membership as defined in the North Carolina Public
20 Schools Allotment Policy Manual adopted by the State Board of
21 Education.
- 22 (2) "County-adjusted property tax base per student" means the total
23 assessed property valuation for each county, adjusted using a weighted
24 average of the three most recent annual sales assessment ratio studies,
25 divided by the total number of students in average daily membership
26 who reside within the county.
- 27 (2a) "Local current expense funds" means the most recent county current
28 expense appropriations to public schools, as reported by local boards
29 of education in the audit report filed with the Secretary of the Local
30 Government Commission pursuant to G.S. 115C-447.
- 31 (3) "Sales assessment ratio studies" means sales assessment ratio studies
32 performed by the Department of Revenue under G.S. 105-289(h).
- 33 (4) "State-adjusted property tax base per student" means the sum of all
34 county-adjusted property tax bases divided by the total number of
35 students in average daily membership who reside within the State.
- 36 (4a) "Supplant" means to decrease local per student current expense
37 appropriations from one fiscal year to the next fiscal year.
- 38 (5) "Weighted average of the three most recent annual sales assessment
39 ratio studies" means the weighted average of the three most recent
40 annual sales assessment ratio studies in the most recent years for which
41 county current expense appropriations and adjusted property tax
42 valuations are available. If real property in a county has been revalued
43 one year prior to the most recent sales assessment ratio study, a
44 weighted average of the two most recent sales assessment ratios shall
45 be used. If property has been revalued during the year of the most
46 recent sales assessment ratio study, the sales assessment ratio for the
47 year of revaluation shall be used.

48 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to
49 the Joint Legislative Education Oversight Committee prior to May 1, 2006, if it
50 determines that counties have supplanted funds.

51 **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged
52 to use at least twenty percent (20%) of the funds they receive pursuant to this section to
53 improve the academic performance of children who are performing at Level I or II on

1 either reading or mathematics end-of-grade tests in grades 3-8 and children who are
2 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of
3 education shall report to the State Board of Education on an annual basis on funds used
4 for this purpose, and the State Board shall report this information to the Joint
5 Legislative Education Oversight Committee. These reports shall specify how these
6 funds were targeted and used to implement specific improvement strategies of each
7 local school administrative unit and its schools such as teacher recruitment, closing the
8 achievement gap, improving student accountability, addressing the needs of at-risk
9 students, and establishing and maintaining safe schools.

10
11 Requested by: Representatives Jeffus, Tolson, Yongue

12 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

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

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

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

34 The State Board of Education may require districts receiving funding under
35 the Disadvantaged Student Supplemental Fund to purchase the Education Value Added
36 Assessment System in order to provide in-depth analysis of student performance and
37 help identify strategies for improving student achievement.

38 **SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the
39 Disadvantaged Students Supplemental Funding Initiative. The State Board of Education
40 shall use these funds to:

- 41 (1) Evaluate the strategies implemented by local school administrative
42 units with Disadvantaged Student Supplemental Funds and other
43 supplemental funds and assess their impact on student performance;
44 and
- 45 (2) Evaluate the efficiency and effectiveness of the technical assistance
46 and support provided to local school administrative units by the
47 Department of Public Instruction.

48 The State Board of Education shall report the results of the evaluation to the
49 Office of State Budget and Management, the Joint Legislative Education Oversight
50 Committee, and the Fiscal Research Division by February 15, 2006, and by January 15
51 of each subsequent year.

52
53 Requested by: Representatives Jeffus, Tolson, Yongue

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

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

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

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.9.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

Requested by: Representatives Jeffus, Tolson, Yongue

FLEXIBILITY FOR THE HIGHEST PRIORITY ELEMENTARY SCHOOLS

SECTION 7.10. The State Board of Education may allow high priority schools that have made high growth for three consecutive years to be removed from the list of high priority schools. If a local board of education chooses to have a school removed from the list of high priority schools, the additional high priority funding for that school shall be discontinued.

Requested by: Representatives Jeffus, Tolson, Yongue

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

SECTION 7.11. The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 2005-2006 fiscal year and for the 2006-2007 fiscal year to implement G.S. 115C-12(24).

Requested by: Representatives Jeffus, Tolson, Yongue

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 7.12. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand eight hundred thirty-eight dollars and thirty-nine cents (\$2,838.39) per child for a maximum of 168,602 children for the 2005-2006 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

1 five-tenths percent (12.5%) of the 2005-2006 allocated average daily membership in the
2 local school administrative unit.

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

7
8 Requested by: Representatives Jeffus, Tolson, Yongue

9 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

10 **SECTION 7.13.** The State Board of Education shall allocate funds for
11 academically or intellectually gifted children on the basis of nine hundred twenty-six
12 dollars and fifty-five cents (\$926.55) per child. A local school administrative unit shall
13 receive funds for a maximum of four percent (4%) of its 2005-2006 allocated average
14 daily membership, regardless of the number of children identified as academically or
15 intellectually gifted in the unit. The State Board shall allocate funds for no more than
16 55,895 children for the 2005-2006 school year.

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

21
22 Requested by: Representatives Jeffus, Tolson, Yongue

23 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

24 **SECTION 7.14.(a)** Funds appropriated for the 2005-2006 and 2006-2007
25 fiscal years for Student Accountability Standards shall be used to assist students to
26 perform at or above grade level in reading and mathematics in grades 3-8 as measured
27 by the State's end-of-grade tests. The State Board of Education shall allocate these funds
28 to LEAs based on the number of students who score at Level I or Level II on either
29 reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation
30 category shall be used to improve the academic performance of (i) students who are
31 performing at Level I or II on either reading or mathematics end-of-grade tests in grades
32 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4
33 and 7. These funds may also be used to improve the academic performance of students
34 who are performing at Level I or II on the high school end-of-course tests. These funds
35 shall not be transferred to other allocation categories or otherwise used for other
36 purposes. Except as otherwise provided by law, local boards of education may transfer
37 other funds available to them into this allocation category.

38 The principal of a school receiving these funds, in consultation with the
39 faculty and the site-based management team, shall implement plans for expending these
40 funds to improve the performance of students.

41 Local boards of education are encouraged to use federal funds such as Title I
42 Comprehensive School Reform Development Funds and to examine the use of State
43 funds to ensure that every student is performing at or above grade level in reading and
44 mathematics.

45 These funds shall be allocated to local school administrative units for the
46 2005-2006 fiscal year within 30 days of the date this act becomes law.

47 **SECTION 7.14.(b)** Funds appropriated for Student Accountability
48 Standards shall not revert at the end of each fiscal year but shall remain available for
49 expenditure until August 31 of the subsequent fiscal year.

50
51 Requested by: Representatives Jeffus, Tolson, Yongue

52 **LITIGATION RESERVE FUNDS**

1 **SECTION 7.15.** The State Board of Education may expend up to five
2 hundred thousand dollars (\$500,000) each year for the 2005-2006 and 2006-2007 fiscal
3 years from unexpended funds for certified employees' salaries to pay expenses related to
4 pending litigation.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**
8 **INSTRUCTION**

9 **SECTION 7.16.** Notwithstanding any other provision of law, the
10 Department of Public Instruction may use salary reserve funds and other funds and may
11 transfer funds within the Department's continuation budget to implement budget
12 reductions for the 2005-2006 fiscal year.

13
14 Requested by: Representatives Jeffus, Tolson, Yongue

15 **REPLACEMENT SCHOOL BUSES FUNDS**

16 **SECTION 7.17.(a)** The State Board of Education may impose any of the
17 following conditions on allotments to local boards of education for replacement school
18 buses:

- 19 (1) The local board of education shall use the funds only to make the first,
20 second, or third year's payment on a financing contract entered into
21 pursuant to G.S. 115C-528.
- 22 (2) The term of a financing contract entered into under this section shall
23 not exceed three years.
- 24 (3) The local board of education shall purchase the buses only from
25 vendors selected by the State Board of Education and on terms
26 approved by the State Board of Education.
- 27 (4) The Department of Administration, Division of Purchase and Contract,
28 in cooperation with the State Board of Education, shall solicit bids for
29 the direct purchase of school buses and activity buses and shall
30 establish a statewide term contract for use by the State Board of
31 Education. Local boards of education and other agencies shall be
32 eligible to purchase from the statewide term contract. The State Board
33 of Education shall also solicit bids for the financing of school buses.
- 34 (5) A bus financed pursuant to this section shall meet all federal motor
35 vehicle safety regulations for school buses.
- 36 (6) Any other condition the State Board of Education considers
37 appropriate.

38 **SECTION 7.17.(b)** Any term contract for the purchase or lease-purchase of
39 school buses or school activity buses shall not require vendor payment of the electronic
40 procurement transaction fee of the North Carolina E-Procurement Service.

41
42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

44 **SECTION 7.18.** G.S. 115C-12(28) reads as rewritten:

45 **"§ 115C-12. Powers and duties of the Board generally.**

46 The general supervision and administration of the free public school system shall be
47 vested in the State Board of Education. The State Board of Education shall establish
48 policy for the system of free public schools, subject to laws enacted by the General
49 Assembly. The powers and duties of the State Board of Education are defined as
50 follows:

- 51 ...
- 52 (28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates.
53 – The State Board of Education shall adopt the following rules to assist

1 schools in their administration of procedures necessary to implement
 2 G.S. 20-11 and G.S. 20-13.2:

- 3 a. To define what is equivalent to a high school diploma for the
 4 purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall
 5 apply to all educational programs offered in the State by public
 6 schools, charter schools, nonpublic schools, or community
 7 colleges.
- 8 b. To establish the procedures a person who is or was enrolled in a
 9 public school or in a charter school must follow and the
 10 requirements that person shall meet to obtain a driving
 11 eligibility certificate.
- 12 c. To require the person who is required under G.S. 20-11(n) to
 13 sign the driving eligibility certificate to provide the certificate if
 14 he or she determines that one of the following requirements is
 15 met:
 - 16 1. The person seeking the certificate is eligible for the
 17 certificate under G.S. 20-11(n)(1) and is not subject to
 18 G.S. 20-11(n1).
 - 19 2. The person seeking the certificate is eligible for the
 20 certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).
- 21 These rules shall apply to public schools and charter schools.
- 22 d. To provide for an appeal to an appropriate education authority
 23 by a person who is denied a driving eligibility certificate. These
 24 rules shall apply to public schools and charter schools.
- 25 e. To define exemplary student behavior and to define what
 26 constitutes the successful completion of a drug or alcohol
 27 treatment counseling program. These rules shall apply to public
 28 schools and charter schools.

29 The State Board also shall develop policies as to when it is
 30 appropriate to notify the Division of Motor Vehicles that a person who
 31 is or was enrolled in a public school or in a charter school no longer
 32 meets the requirements for a driving eligibility certificate.

33 The State Board shall develop a form for parents, guardians, or
 34 emancipated juveniles, as appropriate, to provide their written,
 35 irrevocable consent for a school to disclose to the Division of Motor
 36 Vehicles that the student no longer meets the conditions for a driving
 37 eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if
 38 applicable, in the event that this disclosure is necessary to comply with
 39 G.S. 20-11 or G.S. 20-13.2. Other than identifying under which
 40 statutory subsection the student is no longer eligible, no other details
 41 or information concerning the student's school record shall be released
 42 pursuant to this consent. This form shall be used for students enrolled
 43 in public schools or charter schools.

44 The State Board of Education may use funds appropriated for
 45 drivers education to cover the costs of driving eligibility certificates."

46
 47 Requested by: Representatives Jeffus, Tolson, Yongue

48 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

49 **SECTION 7.19.(a)** If the State Board of Education does not have sufficient
 50 resources in the ADM Contingency Reserve line item to make allotment adjustments in
 51 accordance with the Allotment Adjustments for ADM Growth provisions of the North
 52 Carolina Public Schools Allotment Policy Manual, the State Board of Education may
 53 use funds appropriated to State Aid for Public Schools for this purpose.

1 **SECTION 7.19.(b)** If the higher of the first or second month average daily
2 membership in a local school administrative unit is at least two percent (2%) or 100
3 students lower than the anticipated average daily membership used for allotments for
4 the unit, the State Board of Education shall reduce allotments for the unit. The reduced
5 allotments shall be based on the higher of the first or second month average daily
6 membership plus one-half of the number of students overestimated in the anticipated
7 average daily membership.

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

11
12 Requested by: Representatives Jeffus, Tolson, Yongue

13 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**
14 **EVALUATION**

15 **SECTION 7.20.** The State Board of Education may spend up to fifty
16 thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units
17 for the 2005-2006 and 2006-2007 fiscal years to continue support of a charter school
18 advisory committee and to continue to evaluate charter schools.

19
20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

22 **SECTION 7.21.(a)** The State Board of Education shall grant flexibility to a
23 local board of education regarding the use of mentor funds to provide mentoring
24 support, provided the local board submits a detailed plan on the use of the funds to the
25 State Board and the State Board approves that plan. The plan shall include information
26 on how all mentors in the local school administrative unit have been or will be
27 adequately trained to provide mentoring support.

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

32 **SECTION 7.21.(b)** The State Board, after consultation with the Professional
33 Teaching Standards Commission, shall adopt standards for mentor training.

34 **SECTION 7.21.(c)** Each local board of education with a plan approved
35 pursuant to subsection (a) of this section shall report to the State Board on the impact of
36 its mentor program on teacher retention. The State Board shall analyze these reports to
37 determine the characteristics of mentor programs that are most effective in retaining
38 teachers and shall report its findings to the Joint Legislative Education Oversight
39 Committee by October 15, 2006.

40 **SECTION 7.21.(d)** In addition to the report required in subsection (c) of this
41 section, the State shall also evaluate the effectiveness of a representative sample of local
42 mentor programs and report on its findings to the Joint Legislative Education Oversight
43 Committee and the Fiscal Research Division by December 15, 2006. The evaluation
44 shall focus on quantitative evidence, quality of service delivery, and satisfaction of
45 those involved. The report shall include the results of the evaluation and
46 recommendations both for improving mentor programs generally and for an appropriate
47 level of State support for mentor programs.

48
49 Requested by: Representatives Jeffus, Tolson, Yongue

50 **VISITING INTERNATIONAL EXCHANGE TEACHERS**

51 **SECTION 7.22.(a)** G.S. 115C-105.25(b) is amended by adding a new
52 subdivision to read:

1 "(5a) Positions allocated for classroom teachers may be converted to dollar
2 equivalents to contract for visiting international exchange teachers.
3 These positions shall be converted at the statewide average salary for
4 classroom teachers, including benefits. The converted funds shall be
5 used only to cover the costs associated with bringing visiting
6 international exchange teachers to the local school administrative unit
7 through a State-approved visiting international exchange teacher
8 program and supporting the visiting exchange teachers."

9 **SECTION 7.22.(b)** The Visiting International Faculty Program is a
10 State-approved visiting international exchange teacher program.

11
12 Requested by: Representatives Jeffus, Tolson, Yongue

13 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

14 **SECTION 7.23.(a)** The State Board of Education shall use funds
15 appropriated in this act for State Aid to Local School Administrative Units to provide
16 incentive funding for schools that met or exceeded the projected levels of improvement
17 in student performance during the 2004-2005 school year, in accordance with the ABCs
18 of Public Education Program. In accordance with State Board of Education policy:

19 (1) Incentive awards in schools that achieve higher than expected
20 improvements may be:

21 a. Up to one thousand five hundred dollars (\$1,500) for each
22 teacher and for certified personnel; and

23 b. Up to five hundred dollars (\$500.00) for each teacher assistant.

24 (2) Incentive awards in schools that meet the expected improvements may
25 be:

26 a. Up to seven hundred fifty dollars (\$750.00) for each teacher and
27 for certified personnel; and

28 b. Up to three hundred seventy-five dollars (\$375.00) for each
29 teacher assistant.

30 **SECTION 7.23.(b)** The State Board of Education may use funds
31 appropriated to the State Public School Fund for assistance teams to low-performing
32 schools.

33
34 Requested by: Representatives Jeffus, Tolson, Yongue

35 **LEA ASSISTANCE PROGRAM**

36 **SECTION 7.24.** Of the funds appropriated to the State Public School Fund,
37 the State Board of Education shall use five hundred thousand dollars (\$500,000) for the
38 2005-2006 fiscal year and five hundred thousand dollars (\$500,000) for the 2006-2007
39 fiscal year to provide assistance to the State's low-performing Local School
40 Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress
41 in each subgroup identified in the No Child Left Behind Act of 2001. The State Board
42 of Education shall report to the Office of State Budget and Management, the Fiscal
43 Research Division, and the Joint Legislative Education Oversight Committee on the
44 expenditure of these funds by May 15, 2006, and by December 15, 2007. The report
45 shall contain: (i) the criteria for selecting LEAs and schools to receive assistance, (ii)
46 measurable goals and objectives for the assistance program, (iii) an explanation of the
47 assistance provided, (iv) findings from the assistance program, (v) actual expenditures
48 by category, (vi) recommendations for the continuance of this program, and (vii) any
49 other information the State Board deems necessary. These funds shall not revert at the
50 end of each fiscal year but shall remain available until expended for this purpose.

51
52 Requested by: Representatives Jeffus, Tolson, Yongue

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.25.(a) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2005-2006 and 2006-2007 fiscal years but shall remain available until expended.

SECTION 7.25.(b) This section becomes effective June 30, 2005.

Requested by: Representatives Jeffus, Tolson, Yongue

PUBLIC SCHOOL BUILDING CAPITAL AND TECHNOLOGY FUND

SECTION 7.26.(a) The title of Article 38A of Chapter 115C of the General Statutes reads as rewritten:

"Article 38A.

Public School Building Capital and Technology Fund."

SECTION 7.26.(b) G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital and Technology Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer ~~for credit to the Public School Building Capital Fund~~ an amount equal to ~~the applicable fraction provided in the table below~~ five sixty-ninths (5/69) of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, two million seven hundred sixty-two thousand five hundred dollars (\$2,762,500) shall be for credit to the State Public School Fund, and the remainder shall be for credit to the Public School Capital and Technology Fund. All funds deposited in the Public School Building Capital and Technology Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

Period	Fraction
10/1/97 to 9/30/98	One fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty ninths (2/29)
10/1/99 to 9/30/00	One fourteenth (1/14)
After 9/30/00	Five sixty ninths (5/69)

(c) The Fund shall be administered by the Department of Public Instruction. "

SECTION 7.26.(c) Notwithstanding the provisions of G.S. 115C-546.1(b), as rewritten by subsection (a) of this section, for the first quarter of the 2005-2006 fiscal year only, the Secretary of Revenue shall remit to the State Treasurer an amount equal to five sixty-ninths of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, four million seven hundred sixty-two thousand five hundred dollars (\$4,762,500) shall be for credit to the State Public School Fund, and the remainder shall be for credit to the Public School Capital and Technology Fund.

Requested by: Representatives Jeffus, Tolson, Yongue

LEA SALES TAX REFUND REPORTING

SECTION 7.27.(a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by

1 the governmental entity is considered a sales or use tax liability incurred on direct
2 purchases by the governmental entity for the purpose of this subsection. A request for a
3 refund must be in writing and must include any information and documentation required
4 by the Secretary. A request for a refund is due within six months after the end of the
5 governmental entity's fiscal year. The Secretary shall make an annual report to the
6 Department of Public Instruction and the Fiscal Research Division of the General
7 Assembly by January 1 of the amount of refunds, identified by taxpayer, claimed under
8 subdivisions (2b) and (2c) of this subsection over the preceding year.

9 This subsection applies only to the following governmental entities:

- 10 (1) A county.
- 11 (2) A city as defined in G.S. 160A-1.
- 12 (2a) A consolidated city-county as defined in G.S. 160B-2.
- 13 (2b) A local school administrative unit.
- 14 (2c) A joint agency created by interlocal agreement among local school
15 administrative units pursuant to G.S. 160A-462 to jointly purchase
16 food service-related materials, supplies, and equipment on their behalf.
- 17 (3) A metropolitan sewerage district or a metropolitan water district in this
18 State.
- 19 (4) A water and sewer authority created under Chapter 162A of the
20 General Statutes.
- 21 (5) A lake authority created by a board of county commissioners pursuant
22 to an act of the General Assembly.
- 23 (6) A sanitary district.
- 24 (7) A regional solid waste management authority created pursuant to
25 G.S. 153A-421.
- 26 (8) An area mental health, developmental disabilities, and substance abuse
27 authority, other than a single-county area authority, established
28 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 29 (9) A district health department, or a public health authority created
30 pursuant to Part 1A of Article 2 of Chapter 130A of the General
31 Statutes.
- 32 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 33 (11) A regional planning and economic development commission or a
34 regional economic development commission created pursuant to
35 Chapter 158 of the General Statutes.
- 36 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 37 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 38 (14) A public transportation authority created pursuant to Article 25 of
39 Chapter 160A of the General Statutes.
- 40 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
41 160A of the General Statutes.
- 42 (15) A regional public transportation authority created pursuant to Article
43 26 of Chapter 160A of the General Statutes, or a regional
44 transportation authority created pursuant to Article 27 of Chapter 160A
45 of the General Statutes.
- 46 (16) A local airport authority that was created pursuant to a local act of the
47 General Assembly.
- 48 (17) A joint agency created by interlocal agreement pursuant to
49 G.S. 160A-462 to operate a public broadcasting television station.
- 50 (18) Repealed by Session Laws 2001-474, s. 7, effective November 29,
51 2001.
- 52 (19) Repealed by Session Laws 2001-474, s. 7, effective November 29,
53 2001.

(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds.

(21) The University of North Carolina Health Care System.

(22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes."

SECTION 7.27.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...
 (32) To provide the report required under G.S. 105-164.14(c) to the Department of Public Instruction and the Fiscal Research Division of the General Assembly."

SECTION 7.27.(c) In addition to the report required under G.S. 105-164.14(c), as amended by this section, the Secretary of Revenue shall make a report to the Department of Public Instruction and the Fiscal Research Division of the General Assembly within 30 days after this act becomes law of the amount of refunds, identified by taxpayer, claimed under subdivisions (2b) and (2c) of G.S. 105-164.14(c) during the 2002-2003, 2003-2004, and 2004-2005 fiscal years.

Requested by: Representatives Jeffus, Tolson, Yongue

REVIEW OF STANDARDS FOR MASTERS IN SCHOOL ADMINISTRATION PROGRAMS

SECTION 7.28. The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall review standards for Masters in School Administration programs to ensure that appropriate competencies related to teacher retention, teacher evaluations, teacher support programs, and teacher effectiveness are included and emphasized.

Requested by: Representatives Jeffus, Tolson, Yongue

EVALUATION OF SCHOOL PRINCIPALS

SECTION 7.29. Chapter 115C of the General Statutes is amended by adding a new section to read:

§ 115C-286.1. Evaluations of principals.

Local school administrative units shall evaluate all principals and assistant principals at least once each year. Either the superintendent or the superintendent's designee shall conduct the evaluations.

The State Board shall determine the standards and criteria to be used in the evaluations. A local board shall use the performance standards and criteria adopted by the State Board unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board."

Requested by: Representatives Jeffus, Tolson, Yongue

PLANNING TIME FOR TEACHERS

SECTION 7.30. The State Board of Education shall report on best practices from North Carolina schools for providing a minimum of five hours per week within the instructional day for planning, collaborating with colleagues and parents, and professional development, especially within elementary school schedules. The State

1 Board shall submit its report to the Education Cabinet and to the Joint Legislative
2 Education Oversight Committee by January 15, 2006.

3 The State Board shall disseminate this information about best practices to
4 schools and school systems across the State.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **LEARN AND EARN HIGH SCHOOLS**

8 **SECTION 7.32.(a)** Funds are appropriated in this act for the Learn and Earn
9 high school workforce development program. The purpose of the program is to create
10 rigorous and relevant high school options that provide students with the opportunity and
11 assistance to earn an associate degree or two years of college credit by the conclusion of
12 the year after their senior year in high school. The State Board of Education shall work
13 closely with the Education Cabinet and the New Schools Project in administering the
14 program.

15 **SECTION 7.32.(b)** These funds shall be used to establish new high schools
16 in which a local school administrative unit, two- and four-year colleges and universities,
17 and local employers work together to ensure that high school and postsecondary college
18 curricula operate seamlessly and meet the needs of participating employers.

19 Funds shall not be allotted until Learn and Earn high schools are certified as
20 operational.

21 **SECTION 7.32.(c)** During the first year of its operation, a high school
22 established under G.S. 115C-238.50 shall be allotted a principal regardless of the
23 number of State-paid teachers assigned to the school or the number of students enrolled
24 in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to
25 these positions.

26 **SECTION 7.32.(d)** The State Board of Education, in consultation with the
27 State Board of Community Colleges and The University of North Carolina Board of
28 Governors, shall conduct an annual evaluation of this program. The evaluation shall
29 include measures as identified in G.S. 115C-238.55. It shall also include: (i) an
30 accounting of how funds and personnel resources were utilized and their impact on
31 student achievement, retention, and employability; (ii) recommended statutory and
32 policy changes; and (iii) recommendations for improvement of the program. The State
33 Board of Education shall report the results of this evaluation to the Office of State
34 Budget and Management, the Joint Legislative Education Oversight Committee, and the
35 Fiscal Research Division by January 15 of each fiscal year.

36
37 Requested by: Representatives Jeffus, Tolson, Yongue

38 **FLEXIBILITY FOR HIGH SCHOOL INNOVATION**

39 **SECTION 7.33.(a)** Part 9 of Article 16 of Chapter 115C of the General
40 Statutes reads as rewritten:

41 "Part 9. Cooperative Innovative High School Programs.

42 "**§ 115C-238.50. Purpose.**

43 (a) The purpose of this Part is to authorize ~~boards of trustees of community~~
44 ~~colleges and local boards of education to jointly establish~~ local boards of education to
45 jointly establish with one or more boards of trustees cooperative innovative programs in
46 high schools and ~~community colleges~~ or universities that will expand students'
47 opportunities for educational success through high quality instructional programming.
48 These cooperative innovative high school programs shall target:

- 49 (1) High school students who are at risk of dropping out of school before
50 attaining a high school diploma; or
51 (2) High school students who would benefit from accelerated academic
52 instruction.

1 (b) All the cooperative innovative high school programs established under this
2 Part shall:

- 3 (1) Prepare students adequately for future learning in the workforce or in
4 an institution of higher education.
- 5 (2) Expand students' educational opportunities within the public school
6 system.
- 7 (3) Be centered on the core academic standards represented by the college
8 preparatory or tech prep program of study as defined by the State
9 Board of Education.
- 10 (4) Encourage the cooperative or shared use of resources, personnel, and
11 facilities between public schools and ~~community colleges~~ colleges or
12 universities, or both.
- 13 (5) Integrate and emphasize both academic and technical skills necessary
14 for students to be successful in a more demanding and changing
15 workplace.
- 16 (6) Emphasize parental involvement and provide consistent counseling,
17 advising, and parent conferencing so that parents and students can
18 make responsible decisions regarding course taking and can track the
19 students' academic progress and success.
- 20 (7) Be held accountable for meeting measurable student achievement
21 results.
- 22 (8) Encourage the use of different and innovative teaching methods.
- 23 (9) Establish joint institutional responsibility and accountability for
24 support of students and their success.
- 25 (10) Effectively utilize existing funding sources for high school,
26 ~~community college~~, university, and vocational programs and actively
27 pursue new funding from other sources.
- 28 (11) Develop methods for early identification of potential participating
29 students in the middle grades and through high school.
- 30 (12) Reduce the percentage of students needing remedial courses upon their
31 initial entry from high school into a college or university.

32 (c) Programs developed under this Part that target students who are at risk of
33 dropping out of high school before attaining a high school diploma shall:

- 34 (1) Provide these students with the opportunity to graduate from high
35 school possessing the core academic skills needed for postsecondary
36 education and high-skilled employment.
- 37 (2) Enable students to complete a technical or academic program in a field
38 that is in high demand and has high wages.
- 39 (3) Set and achieve goals that significantly reduce dropout rates and raise
40 high school and ~~community college~~ retention, certification, and degree
41 completion rates.
- 42 (4) Enable students who complete these programs to pass employer
43 exams, if applicable.

44 (d) Cooperative innovative high school programs that offer accelerated learning
45 programs shall:

- 46 (1) Provide a flexible, customized program of instruction for students who
47 would benefit from accelerated, higher level coursework or early
48 graduation from high school.
- 49 (2) Enable students to obtain a high school diploma in less than four years
50 ~~and years~~, to begin or complete an associate degree program or
51 program, to master a certificate or vocational program-program, or to
52 earn up to two years of college credit.

1 (3) Offer a college preparatory academic core and in-depth studies in a
2 career or technical field that will lead to advanced programs or
3 employment opportunities in engineering, health sciences, or teaching.

4 (e) Cooperative innovative high school programs may include the creation of a
5 school within a school, a technical high school, or a high school or technical center
6 located on the campus of a ~~community college~~ college or university.

7 (f) Students are eligible to attend these programs as early as ninth grade.

8 **"§ 115C-238.50A. Definitions.**

9 The following definitions apply in this Part:

10 (1) Constituent institution. – A constituent institution as defined in
11 G.S. 116-2(4).

12 (2) Education partner. – An education partner as provided in
13 G.S. 115C-238.52.

14 (3) Governing board. – The State Board of Community Colleges, the
15 Board of Governors of The University of North Carolina, or the Board
16 of the North Carolina Independent Colleges and Universities.

17 (4) Local board of trustees. – The board of trustees of a community
18 college, constituent institution of The University of North Carolina, or
19 private college located in North Carolina.

20 **"§ 115C-238.51. Application process.**

21 (a) A local board of education and ~~a~~ at least one local board of trustees ~~of a~~
22 ~~community college~~ shall jointly apply to establish a cooperative innovative high school
23 program under this Part.

24 (b) The application shall contain at least the following information:

25 (1) A description of a program that implements the purposes in
26 G.S. 115C-238.50.

27 (2) A statement of how the program relates to the Economic Vision Plan
28 adopted for the economic development region in which the program is
29 to be located.

30 (3) The facilities to be used by the program and the manner in which
31 administrative services of the program are to be provided.

32 (4) A description of student academic and vocational achievement goals
33 and the method of demonstrating that students have attained the skills
34 and knowledge specified for those goals.

35 (5) A description of how the program will be operated, including
36 budgeting, curriculum, transportation, and operating procedures.

37 (6) The process to be followed by the program to ensure parental
38 involvement.

39 (7) The process by which students will be selected for and admitted to the
40 program.

41 (8) A description of the funds that will be used and a proposed budget for
42 the program. This description shall identify how the average daily
43 membership (ADM) and full-time equivalent (FTE) students are
44 counted.

45 (9) The qualifications required for individuals employed in the program.

46 (10) The number of students to be served.

47 (11) A description of how the program's effectiveness in meeting the
48 purposes in G.S. 115C-238.50 will be measured.

49 (c) The application shall be submitted to the State Board of Education and the
50 ~~State Board of Community Colleges~~ applicable governing Boards by November 1 of
51 each year. The ~~State Board of Education and the State Board of Community Colleges~~
52 Boards shall appoint a joint advisory committee to review the applications and to

1 recommend to the ~~State Boards~~ those programs that meet the requirements of this Part
2 and that achieve the purposes set out in G.S. 115C-238.50.

3 (d) ~~The State Board of Education and the State Board of Community Colleges~~
4 ~~shall approve two cooperative innovative high school programs in each of the State's~~
5 ~~economic development regions.~~ The State Boards may approve programs recommended
6 by the joint advisory committee or may approve other programs that were not
7 recommended. The ~~State Boards~~ shall approve all applications by March 15 of each
8 year. No application shall be approved unless the ~~State Boards~~ State Board of Education
9 and the applicable governing Board find that the application meets the requirements set
10 out in this Part and that granting the application would achieve the purposes set out in
11 G.S. 115C-238.50. Priority shall be given to applications that are most likely to further
12 State education policies, to address the economic development needs of the economic
13 development regions in which they are located, and to strengthen the educational
14 programs offered in the local school administrative units in which they are located.

15 **"§ 115C-238.52. Participation by other education partners.**

16 (a) Any or all of the following education partners may participate in the
17 development of a cooperative innovative program under this Part that is targeted to high
18 school students who would benefit from accelerated academic instruction:

- 19 (1) ~~A constituent institution of The University of North Carolina.~~
- 20 (2) ~~A private college or university located in North Carolina.~~
- 21 (3) A private business or organization.
- 22 (4) The county board of commissioners in the county in which the
23 program is located.

24 (b) Any or all of the education partners listed in subsection (a) of this section that
25 participate shall:

- 26 (1) Jointly apply with the local board of education and the local board of
27 trustees ~~of the community college~~ to establish a cooperative innovative
28 program under this Part.
- 29 (2) Be identified in the application.
- 30 (3) Sign the written agreement under G.S. 115C-238.53(b).

31 **"§ 115C-238.53. Program operation.**

32 (a) A program approved by the State ~~shall be~~ is accountable to the local board of
33 education.

34 (b) A program approved under this Part shall operate under the terms of a written
35 agreement signed by the local board of education, local board of ~~trustees of the~~
36 ~~community college, trustees,~~ State Board of Education, and ~~State Board of Community~~
37 ~~Colleges.~~ applicable governing Board. The agreement shall incorporate the information
38 provided in the application, as modified during the approval process, and any terms and
39 conditions imposed on the program by the State Board of Education and the ~~State Board~~
40 ~~of Community Colleges.~~ applicable governing Board. The agreement may be for a term
41 of no longer than five school years.

42 (c) A program may be operated in a facility owned or leased by the local board
43 of education, the local board of ~~trustees of the community college, trustees,~~ or the
44 education partner, if any.

45 (d) A program approved under this Part shall provide instruction each school
46 year for at least 180 days during nine calendar months, shall comply with laws and
47 policies relating to the education of students with disabilities, and shall comply with
48 Article 27 of this Chapter.

49 (e) A program approved under this Part may use State, federal, and local funds
50 allocated to the local school administrative unit, to the ~~State Board of Community~~
51 ~~Colleges,~~ applicable governing Board, and to the ~~community college or university~~ to
52 implement the program. If there is an education partner and if it is a public body, the
53 program may use State, federal, and local funds allocated to that body.

1 (f) Except as provided in this Part and ~~pursuant to~~ under the terms of the
2 agreement, a program is ~~exempt~~ may be exempted by the applicable governing Board
3 from laws and rules applicable to a local board of education, a local school
4 administrative unit, a community college, a constituent institution, or a local board of
5 ~~trustees of a community college trustees~~.

6 **"§ 115C-238.54. Funds for programs.**

7 (a) The Department of Public Instruction shall assign a school code for each
8 program that is approved under this Part. All positions and other State and federal
9 allotments that are generated for this program shall be assigned to that school code.
10 Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the
11 local board of education may use these funds for the program and may transfer these
12 funds between funding allotment categories.

13 (b) The local board of trustees ~~of a community college~~ may allocate State and
14 federal funds for a program that is approved under this Part.

15 (c) An education partner under G.S. 115C-238.52 that is a public body may
16 allocate State, federal, and local funds for a program that is approved under this Part.

17 (d) If not an education partner under G.S. 115C-238.52, a county board of
18 commissioners in a county where a program is located may nevertheless appropriate
19 funds to a program approved under this Part.

20 (e) The local board of education and the local board of trustees ~~of the community~~
21 ~~college~~ are strongly encouraged to seek funds from sources other than State, federal,
22 and local appropriations. They are strongly encouraged to seek funds the Education
23 Cabinet identifies or obtains under G.S. 116C-4.

24 **"§ 115C-238.55. Evaluation of programs.**

25 The State Board of Education and the ~~State Board of Community Colleges~~
26 governing Boards shall evaluate the success of students in programs approved under this
27 Part. Success shall be measured by high school retention rates, high school completion
28 rates, high school dropout rates, certification and associate degree completion,
29 admission to four-year institutions, postgraduation employment in career or
30 study-related fields, and employer satisfaction of employees who participated in and
31 graduated from the programs. Beginning October 15, 2005, and annually thereafter, the
32 Boards shall jointly report to the Joint Legislative Education Oversight Committee on
33 the evaluation of these programs. If, by October 15, 2006, the Boards determine any or
34 all of these programs have been successful, they shall jointly develop a prototype plan
35 for similar programs that could be expanded across the State. This plan shall be
36 included in their report to the Joint Legislative Education Oversight Committee that is
37 due by October 15, 2007."

38 **SECTION 7.33.(b)** It is the intent of the General Assembly that three
39 cooperative innovative high school programs are established that emphasize the
40 educational development of high school students in the areas of science and
41 mathematics in a nonresidential setting. One of these programs shall be located in the
42 eastern region of the State, one shall be located in the central region of the State, and
43 one shall be located in the western region of the State. The State Board of Education
44 shall begin planning for the design and implementation of these programs and shall
45 report their plan to the Joint Legislative Education Oversight Committee and the Fiscal
46 Research Division of the General Assembly by March 15, 2006.

47 The plan shall include, but not be limited to, the following aspects of the
48 proposed programs:

- 49 (1) Programmatic design including location, curriculum, student access,
50 and calendar.
- 51 (2) Projected costs of operation, including instructional, administrative,
52 transportation, capital, and other costs.
- 53 (3) Any plans for coordination with institutes of higher education.

1 (4) Proposed implementation schedule.
2

3 Requested by: Representatives Jeffus, Tolson, Yongue

4 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
5 **ALTERNATIVES THERAPEUTIC CAMP**

6 **SECTION 7.35.** Of the funds appropriated for at-risk student
7 services/alternative schools, the State Board shall transfer to the Department of Juvenile
8 Justice and Delinquency Prevention the sum of six hundred thousand dollars (\$600,000)
9 for the 2005-2006 fiscal year and the sum of six hundred thousand dollars (\$600,000)
10 for the 2006-2007 fiscal year to provide for the education of North Carolina students
11 referred by the public schools to Eckerd Youth Alternatives therapeutic camps.
12

13 Requested by: Representatives Jeffus, Tolson, Yongue

14 **MINIMIZE TIME DEVOTED TO STANDARDIZED TESTS**

15 **SECTION 7.37.** G.S. 115C-174.12(a) reads as rewritten:

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

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

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

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

32 These policies shall reflect standard testing practices to insure reliability and validity
33 of the sample testing. The results of the field tests shall be used in the final design of
34 each test. The State Board of Education's policies regarding the testing of children with
35 disabilities shall (i) provide broad accommodations and alternate methods of assessment
36 that are consistent with a child's individualized education program and section 504 (29
37 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of
38 decisions about a child's graduation or promotion, and (iii) provide parents with
39 information about the Statewide Testing Program and options for students with
40 disabilities. The State Board shall report its proposed policies and proposed changes in
41 policies to the Joint Legislative Education Oversight Committee prior to adoption.

42 The State Board of Education may appoint an Advisory Council on Testing to assist
43 in carrying out its responsibilities under this Article."
44

45 Requested by: Representatives Jeffus, Tolson, Yongue

46 **PLAN AND FUNDING FOR A VIRTUAL HIGH SCHOOL**

47 **SECTION 7.41.(a)** The State Board of Education, the Board of Governors
48 of The University of North Carolina, the Independent Colleges and Universities, and the
49 State Board of Community Colleges shall develop E-learning standards and plans for
50 infrastructures that provide virtual learning opportunities accessible to students and
51 other citizens through all North Carolina schools, universities, and community colleges.
52 In developing the plan for the public schools, the State Board of Education shall focus
53 initially on high schools while also researching and developing, where appropriate,

1 E-learning for middle schools, junior high schools, and elementary schools. E-learning
 2 programs shall support both teachers and students.

3 **SECTION 7.41.(b)** As used in this section, "E-learning" is electronic
 4 learning that includes a wide set of applications and processes, such as Web-based
 5 learning, computer-based learning, virtual classrooms, and digital collaboration. It
 6 includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audiotape,
 7 videotape, satellite broadcast, interactive television, and CD-ROM.

8 **SECTION 7.41.(c)** It is the intent of the General Assembly to give public
 9 schools the highest priority in funding for and development of E-learning. Funding for
 10 E-learning should be a new appropriation and not come exclusively from existing funds.

11 **SECTION 7.41.(d)** The State Board of Education shall use funds
 12 appropriated for a virtual high school to establish and implement a pilot virtual high
 13 school during the 2005-2006 school year and the 2006-2007 school year.

14 The State Board of Education shall include in the pilot program instruction on
 15 personal financial literacy. This instruction shall be designed to equip students with the
 16 knowledge and skills they need, before they become self-supporting, to make critical
 17 decisions regarding their personal finances. The components of instruction shall include,
 18 at a minimum, consumer financial education, personal finance, and personal credit.

19 **SECTION 7.41.(e)** If the pilot program is successful, it is the intent of the
 20 General Assembly to provide funding to implement a virtual high school on a statewide
 21 basis for the 2006-2007 fiscal year.

22
 23 Requested by: Representatives Jeffus, Tolson, Yongue

24 **FEASIBILITY STUDY FOR DEVELOPING REGIONAL EDUCATION**
 25 **NETWORKS**

26 **SECTION 7.42.** The North Carolina Rural Economic Development Center
 27 and the e-NC Authority, in collaboration with interested providers of broadband
 28 services, representatives from local school administrative units, The University of North
 29 Carolina, private colleges, the State Board of Education, the State Chief Information
 30 Officer, and the Community College System shall perform a feasibility study on
 31 developing regional education networks that provide and sustain broadband service
 32 access to individual students and teachers in schools, community colleges, and
 33 universities.

34 The study shall include (i) an evaluation of existing technology and service
 35 applications such as the statewide infrastructure, the North Carolina Research and
 36 Education Network, and networks such as Winston-Net and (ii) an evaluation of newer
 37 technology such as wireless broadband access. It shall recommend ways to maximize
 38 the use of these existing resources to support growth in broadband service access to the
 39 State, including underserved regions.

40 The North Carolina Rural Economic Development Center and the e-NC
 41 Authority shall report the results of the study to the 2006 Regular Session of the 2005
 42 General Assembly.

43
 44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **ASSISTANCE WITH SCHOOL TECHNOLOGY NEEDS**

46 **SECTION 7.43.(a)** G.S. 115C-102.6A(c) is amended by adding a new
 47 subdivision to read:

48 "(c) Components of the State school technology plan shall include at least the
 49 following:

- 50 ...
 51 (17) A baseline template for:
 52 a. Technology and service application infrastructure, including
 53 broadband connectivity, personnel recommendations, and other

1 resources needed to operate effectively from the classroom
2 desktop to local, regional, and State networks, and

- 3 b. An evaluation component that provides for local school
4 administrative unit accountability for maintaining quality
5 upgradeable systems."

6 **SECTION 7.43.(b)** No later than October 31, 2005, the Department of
7 Public Instruction shall hold regional workshops for local school administrative units to
8 provide guidance in developing local school system technology plans that meet the
9 criteria established in the State school technology plan, including the components added
10 under subsection (a) of this section.

11 **SECTION 7.43.(c)** G.S. 115C-102.7 is amended by adding the following
12 new subsection to read:

13 "(c) The Department of Public Instruction shall randomly check local school
14 system technology plans to ensure that local school administrative units are
15 implementing their plans as approved. The Department shall report to the State Board of
16 Education and the State Chief Information Officer on which local school administrative
17 units are not complying with their plans. The report shall include the reasons these local
18 school administrative units are out of compliance and a recommended plan of action to
19 support each of these local school administrative units in carrying out their plans."

20 **SECTION 7.43.(d)** The State Board of Education shall determine the total
21 amount of funds needed for the recurring total cost of ownership to implement,
22 maintain, and upgrade technology infrastructures and instructional technology as
23 specified in the revised local school system technology plans. This shall include
24 personnel costs for both technical and instructional needs so that a three- to five-year
25 budget plan can be developed for the General Assembly.

26 **SECTION 7.43.(e)** The State Board of Education shall also study and
27 identify the types of resources needed to operate schools designed to meet the needs of
28 twenty-first century learners.

29 The State Board shall report the results of this study to the 2006 Regular
30 Session of the 2005 General Assembly.

31 **SECTION 7.43.(f)** In order to provide assistance to local school
32 administrative units with E-rate applications, the Department of Public Instruction shall,
33 within existing funds, ensure that a minimum of one full-time coordinator is assigned
34 this responsibility. The Department shall notify local school administrative units about
35 the person or office assigned the responsibility of providing assistance with E-rate
36 applications.

37 The Department shall provide the State Board of Education with an annual
38 report on E-rate, including funding, commitments, and enrollment by local school
39 administrative units.

40 As used in this section, "E-rate" is the mechanism to provide discount rates to
41 support universal telecommunications services for use by schools and libraries as
42 provided in section 254 of the federal Telecommunications Act of 1996.

43
44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **SCHOOL EMPLOYEE SALARY STUDY**

46 **SECTION 7.47.** The Joint Legislative Education Oversight Committee shall
47 study the current salary structure for teachers and other school employees. In the course
48 of the study, the Committee shall:

- 49 (1) Develop a plan to get the State moving toward the national average in
50 teacher salaries by 2008 and toward the top 10 states in the nation by
51 2010.
52 (2) Consider strategies for maintaining the lead in teacher salaries in the
53 Southeastern United States.

- (3) Consider the need to reduce the number of steps on the teacher salary schedule, increase the beginning teacher salary, and enable an individual to reach the maximum salary sooner.
- (4) Perform a market-sensitive analysis of the skills and knowledge needed to be a successful teacher to determine what it takes to make the schedule attractive and competitive.
- (5) Consider the placement of appropriate extraordinary increases on schedule for achievement of career status, teacher retention, and other purposes.
- (6) Determine the need to modify the masters schedule differential.
- (7) Determine the need to modify the alternative salary schedules to reward different levels of academic preparation and career accomplishments such as attainment of national certification.
- (8) Consider the appropriate relationship of the school counselor's and psychologist's schedules to the schedules for other members of the school-based staff.
- (9) Determine the need to modify the administrator salary schedule.
- (10) Consider how personal leave and other fringe benefits contribute to the compensation packages for employees.
- (11) Consider the need to modify pay scales for teacher assistants and other noncertified personnel.
- (12) Consider other matters the Committee deems appropriate.

The Committee shall report the results of its study to the 2006 Regular Session of the 2005 General Assembly.

Requested by: Representatives Jeffus, Tolson, Yongue

ZERO-BASED BUDGET REVIEW OF THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.49.(a) There is created the Legislative Study Commission on the Budget of the Department of Public Instruction. The purpose of the Commission is to perform a zero-based budget review of the Department of Public Instruction.

SECTION 7.49.(b) The Commission shall consist of five members of the House of Representatives appointed by the Speaker of the House of Representatives and five members of the Senate appointed by the President Pro Tempore of the Senate.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 7.49.(c) In performing a zero-based budget review of the Department of Public Instruction, the Commission shall:

- (1) Consider the mission and goals of the Department, as set out in statutes and in the rules, policies, and practices of the Department;
- (2) Evaluate the mission and goals of the Department in view of the Leandro decision, the No Child Left Behind Act of 2001, the academic performance of students in the public schools, and the needs of the State and its citizens, and propose any necessary revisions;
- (3) Evaluate the efficiency and effectiveness of the Department of Public Instruction in furthering the missions and goals of the Department, including any proposed revisions. This evaluation shall include (i) the role of the Department of Public Instruction, its administrative structure, organization, and its statutory powers and duties; (ii) the role of the State Board of Education as the head of the Department of Public Instruction, its composition, organization, and constitutional

- 1 and statutory powers and duties; and (iii) the role of the State
 2 Superintendent as secretary and chief administrative officer of the
 3 State Board, the State Superintendent's selection, and the State
 4 Superintendent's constitutional and statutory powers and duties;
- 5 (4) Evaluate each program within the Department to determine (i) whether
 6 and to what extent it is required by State or federal law; (ii) what
 7 extent it achieves the mission and goals of the Department; and (iii)
 8 whether there are alternative ways to achieve the mission and goals of
 9 the Department, including proposed revisions, in a more efficient and
 10 effective manner;
- 11 (5) Assess the activities performed in each program, the major benefits
 12 provided by the program, the current cost and staffing levels for the
 13 program, the rationale for the cost and staffing levels, and the
 14 administrative and other overhead costs of the program;
- 15 (6) Determine the level of funding and staff necessary to accomplish the
 16 goals and missions of the Department, including proposed revisions,
 17 without regard to past levels of funding.

18 **SECTION 7.49.(d)** The Commission, while in the discharge of its official
 19 duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1
 20 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the
 21 cochairs. The Commission may meet in the Legislative Building or the Legislative
 22 Office Building.

23 The Legislative Services Commission, through the Legislative Services
 24 Officer, shall assign professional staff to assist the Commission in its work. The House
 25 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
 26 the Commission, and the expenses relating to the clerical employees shall be borne by
 27 the Commission. The Commission may contract for professional, clerical, or consultant
 28 services as provided by G.S. 120-32.02. If the Commission hires a consultant, the
 29 consultant shall not be a State employee or a person currently under contract with the
 30 State to provide services.

31 All State departments and agencies and local governments and their
 32 subdivisions shall furnish the Commission with any information in their possession or
 33 available to them.

34 The Legislative Services Commission, through the Legislative Services
 35 Officer, shall assign professional staff to assist the Commission in its work. The House
 36 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
 37 the Commission, and the expenses relating to the clerical employees shall be borne by
 38 the Commission.

39 **SECTION 7.49.(e)** The Commission shall report the results of its study and
 40 its recommendations to the 2006 Regular Session of the 2005 General Assembly upon
 41 its convening. The Commission shall terminate upon filing its final report or upon the
 42 convening of the 2006 Regular Session of the 2005 General Assembly, whichever is
 43 earlier.

44
 45 Requested by: Representatives Jeffus, Tolson, Yongue

46 **FACILITATE HIRING OF TEACHERS**

47 **SECTION 7.50.** G.S. 115C-296 reads as rewritten:

48 "**~~§ 115C-296. Board sets certification~~ Certification requirements.**

49 (a) State Board of Education Shall Certify Teachers. – The State Board of
 50 Education shall have ~~entire~~ control of certifying all applicants for teaching positions in
 51 all public elementary and high schools of North ~~Carolina; and it~~ Carolina, subject to
 52 laws enacted by the General Assembly. An applicant must meet the requirements for a
 53 highly qualified teacher under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301,

1 et seq., to be certified in North Carolina. The State Board shall prescribe the rules and
2 regulations for the renewal and extension of all certificates and shall determine and fix
3 the salary for each grade and type of certificate ~~which~~ that it authorizes.

4 ~~The State Board of Education may require an applicant for an initial bachelors~~
5 ~~degree certificate or graduate degree certificate to demonstrate the applicant's academic~~
6 ~~and professional preparation by achieving a prescribed minimum score on a standard~~
7 ~~examination appropriate and adequate for that purpose. The~~

8 (a1) Certification of Beginning In-State and Out-of-State Teachers. – The
9 certification requirements for an initial bachelors degree certificate or masters degree
10 certificate for a beginning teacher who has completed an approved teacher education
11 program and who is an in-State applicant or an applicant from another state shall
12 include the following:

13 (1) An applicant for a certificate as an elementary education teacher or a
14 special education teacher shall demonstrate academic and professional
15 preparation by either (i) achieving a prescribed minimum score on a
16 standard examination appropriate and adequate for that purpose or (ii)
17 otherwise meeting the requirements for a highly qualified teacher
18 under the No Child Left Behind Act of 2001.

19 (2) An applicant for a certificate in all other areas of certification shall
20 demonstrate academic and professional preparation by either (i)
21 achieving a prescribed minimum score on a standard examination
22 appropriate and adequate for that purpose, (ii) completing an
23 appropriate academic major, graduate degree, or comparable
24 coursework, or (iii) otherwise meeting the requirements for a highly
25 qualified teacher under the No Child Left Behind Act of 2001.

26 (a2) Certification of Teachers From Other States With Less Than Three Years of
27 Experience. – A teacher from another state who (i) has less than three years of
28 experience as a full-time classroom teacher, (ii) is fully certified and highly qualified, as
29 provided in the No Child Left Behind Act of 2001 in that other state, and (iii) is
30 employed as a teacher by a local school administrative unit in North Carolina, is
31 deemed to have satisfied the academic and professional preparation required to receive
32 initial certification in North Carolina, except as otherwise provided in the No Child Left
33 Behind Act of 2001. The initial certification shall be granted for the period of time
34 necessary for the teacher to acquire three years of full-time teaching experience in North
35 Carolina and the other state combined, whichever is longer.

36 (a3) Certification of In-State and Out-of-State Teachers With at Least Three Years
37 of Experience. – A teacher from North Carolina or another state who (i) has three or
38 more years of experience as a full-time teacher, (ii) is fully certified and highly qualified
39 as provided in the No Child Left Behind Act of 2001 in North Carolina or in that other
40 state, and (iii) is employed as a teacher by a local school administrative unit in North
41 Carolina, is deemed to have satisfied the academic and professional preparation required
42 to receive continuing certification in North Carolina, except as otherwise provided in
43 the No Child Left Behind Act of 2001.

44 (a4) Certification of Visiting International Faculty. – The State Board of
45 Education shall issue an international faculty certificate to an individual on a cultural
46 exchange visa who (i) has a university degree and a teaching certificate in his or her
47 country, (ii) is qualified in his or her home country to teach the subjects he or she will
48 teach, (iii) speaks English proficiently, and (iv) meets the definition of highly qualified
49 under the No Child Left Behind Act of 2001. The certificate shall be granted for the
50 period of time during which the teacher holds a cultural exchange visa, not to exceed
51 three consecutive years.

52 An individual on a cultural exchange visa shall not be eligible to receive any other
53 teacher certificate.

1 (a5) Testing Requirements. – An applicant for teacher certification shall not be
2 required to take and pass a standard examination except as required by subsection (a1)
3 of this section or the No Child Left Behind Act of 2001.

4 The State Board of Education shall permit an applicant to fulfill any such testing
5 requirement before or during the applicant's second year of teaching provided the
6 applicant took the examination at least once during the first year of teaching. The State
7 Board of Education shall make any required standard initial certification exam
8 sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that
9 each applicant has adequate academic and professional preparation to teach.

10 ~~(a1)~~ The State Board shall adopt policies that establish the minimum scores for
11 any required standard examinations and other measures necessary to assess the
12 qualifications of professional personnel as required under subsection ~~(a)~~(a1) of this
13 ~~section~~section or the No Child Left Behind Act of 2001. For purposes of this
14 subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the
15 General Statutes. At least 30 days prior to changing any policy adopted under this
16 subsection, the State Board shall provide written notice to all North Carolina schools of
17 education and to all local boards of education. The written notice shall include the
18 proposed revised policy.

19 ~~(a2)~~ (a6) Fees for Teacher Certification. – The State Board of Education shall
20 impose the following schedule of fees for teacher certification and administrative
21 changes:

- 22 (1) Application for demographic or administrative changes to a certificate,
23 \$30.00.
- 24 (2) Application for a duplicate certificate or for copies of documents in the
25 certification files, \$30.00.
- 26 (3) Application for a renewal, extension, addition, upgrade, and variation
27 to a certificate, \$55.00.
- 28 (4) Initial application for New, In-State Approved Program Graduate,
29 \$55.00.
- 30 (5) Initial application for ~~Out of State certificate,~~ certificate for a teacher
31 from another state, \$85.00.
- 32 (6) All other applications, \$85.00.

33 The applicant must pay the fee at the time the application is submitted.

34 (b) Standards for Teacher and School Administrator Education Programs, Entry
35 Into Teacher Education Programs, and Continuing Certification. – It is the policy of the
36 State of North Carolina to maintain the highest quality teacher education programs and
37 school administrator programs in order to enhance the competence of professional
38 personnel certified in North Carolina. To the end that teacher preparation programs are
39 upgraded to reflect a more rigorous course of study, the State Board of Education, as
40 lead agency in coordination and cooperation with the University Board of Governors,
41 the Board of Community Colleges and such other public and private agencies as are
42 necessary, shall continue to refine the several certification requirements, standards for
43 approval of institutions of teacher education, standards for institution-based innovative
44 and experimental programs, standards for implementing consortium-based teacher
45 education, and standards for improved efficiencies in the administration of the approved
46 programs. The certification program shall provide for initial certification after
47 completion of preservice training, continuing certification after three years of teaching
48 experience, and certificate renewal every five years thereafter, until the retirement of the
49 teacher. The last certificate renewal received prior to retirement shall remain in effect
50 for five years after retirement.

51 The State Board of Education, as lead agency in coordination with the Board of
52 Governors of The University of North Carolina and any other public and private

1 agencies as necessary, shall continue to raise standards for entry into teacher education
2 programs.

3 The State Board of Education, in consultation with the Board of Governors of The
4 University of North Carolina, shall evaluate and develop enhanced requirements for
5 continuing certification. The new requirements shall reflect more rigorous standards for
6 continuing certification and to the extent possible shall be aligned with quality
7 professional development programs that reflect State priorities for improving student
8 achievement.

9 ~~The State Board of Education, in consultation with local boards of education and the
10 Board of Governors of The University of North Carolina, shall reevaluate and enhance
11 the requirements for renewal of teacher certificates. The State Board shall consider
12 modifications in the certificate renewal achievement and to make it a mechanism for
13 teachers to renew continually their knowledge and professional skills. The State Board
14 shall adopt new standards for the renewal of teacher certificates by May 15, 1998.~~

15 The standards for approval of institutions of teacher education shall require that
16 teacher education programs for students who do not major in special education include
17 demonstrated competencies in the identification and education of children with learning
18 disabilities. The State Board of Education shall incorporate the criteria developed in
19 accordance with G.S. 116-74.21 for assessing proposals under the School Administrator
20 Training Program into its school administrator program approval standards.

21 All North Carolina institutions of higher education that offer teacher education
22 programs, masters degree programs in education, or masters degree programs in school
23 administration shall provide performance reports to the State Board of Education. The
24 performance reports shall follow a common format, shall be submitted according to a
25 plan developed by the State Board, and shall include the information required under the
26 plan developed by the State Board.

27 (b1) Performance Reports for Teacher and School Administrator Education
28 Programs. – The State Board of Education shall develop a plan to provide a focused
29 review of teacher education programs and the current process of accrediting these
30 programs in order to ensure that the programs produce graduates that are well prepared
31 to teach. The plan shall include the development and implementation of a school of
32 education performance report for each teacher education program in North Carolina.
33 The performance report shall include at least the following elements: (i) quality of
34 students entering the schools of education, including the average grade point average
35 and average score on preprofessional skills tests that assess reading, writing, math and
36 other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average
37 scores of graduates on professional and content area examination for the purpose of
38 certification; (v) percentage of graduates receiving initial certification; (vi) percentage
39 of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for
40 four years; (viii) graduate satisfaction based on a common survey; and (ix) employer
41 satisfaction based on a common survey. The performance reports shall follow a
42 common format. The performance reports shall be submitted annually. The State Board
43 of Education shall develop and implement a plan ~~to be implemented beginning in the~~
44 ~~1998-99 school year~~ to reward and sanction approved teacher education programs and
45 masters of education programs and to revoke approval of those programs based on the
46 performance reports and other criteria established by the State Board of Education.

47 The State Board also shall develop and implement a plan for annual performance
48 reports for all masters degree programs in education and school administration in North
49 Carolina. To the extent it is appropriated, the performance report shall include similar
50 indicators to those developed for the performance report for teacher education
51 programs. The performance reports shall follow a common format.

52 Both plans for performance reports also shall include a method to provide the annual
53 performance reports to the Board of Governors of The University of North Carolina, the

1 State Board of Education, and the boards of trustees of the independent colleges. The
2 State Board of Education shall review the schools of education performance reports and
3 the performance reports for masters degree programs in education and school
4 administration each year the performance reports are submitted. The State Board shall
5 submit the performance report for the 1999-2000 school year to the Joint Legislative
6 Education Oversight Committee by December 15, 2000. Subsequent performance
7 reports shall be submitted to the Joint Legislative Education Oversight Committee on an
8 annual basis by October 1.

9 (c) Lateral Entry. – It is the policy of the State of North Carolina to encourage
10 lateral entry into the profession of teaching by skilled individuals from the private
11 sector. To this end, before the 1985-86 school year begins, the State Board of Education
12 shall develop criteria and procedures to accomplish the employment of such individuals
13 as classroom teachers. ~~Regardless of credentials or competence, no one shall begin~~
14 ~~teaching above the middle level of differentiation.~~ Skilled individuals who choose to
15 enter the profession of teaching laterally may be granted a ~~provisional~~ an alternative
16 teaching certificate for no more than five ~~three~~ years prior to completing the
17 requirements for lateral entry and shall be required to obtain certification before
18 contracting for a ~~sixth~~ fourth year of service with any local administrative unit in this
19 State.

20 It is further the policy of the State of North Carolina to ensure that local boards of
21 education can provide the strongest possible leadership for schools based upon the
22 identified and changing needs of individual schools. To this end, before the 1994-95
23 school year begins, the State Board of Education shall carefully consider a lateral entry
24 program for school administrators to ensure that local boards of education will have
25 sufficient flexibility to attract able candidates.

26 (d) Suspension and Revocation of Certificates. – The State Board shall adopt
27 rules to establish the reasons and procedures for the suspension and revocation of
28 certificates. The State Board shall revoke the certificate of a teacher or school
29 administrator if the State Board receives notification from a local board or the Secretary
30 of Health and Human Services that a teacher or school administrator has received an
31 unsatisfactory or below standard rating under G.S. 115C-333(d). In addition, the State
32 Board may revoke or refuse to renew a teacher's certificate when:

- 33 (1) The Board identifies the school in which the teacher is employed as
34 low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- 35 (2) The State Board shall automatically revoke the certificate of a teacher
36 or school administrator without the right to a hearing upon receiving
37 verification of the identity of the teacher or school administrator
38 together with a certified copy of a criminal record showing that the
39 teacher or school administrator has entered a plea of guilty or nolo
40 contendere to or has been finally convicted of any of the following
41 crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy
42 or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense
43 as defined in Article 7A of Chapter 14 of the General Statutes.
44 Felonious assault with deadly weapon with intent to kill or inflicting
45 serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of
46 children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest,
47 G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist
48 in offense against public morality and decency, G.S. 14-190.6;
49 Dissemination to minors under the age of 16 years, G.S. 14-190.7;
50 Dissemination to minors under the age of 13 years, G.S. 14-190.8;
51 Displaying material harmful to minors, G.S. 14-190.14; Disseminating
52 harmful material to minors, G.S. 14-190.15; First degree sexual
53 exploitation of a minor, G.S. 14-190.16; Second degree sexual

1 exploitation of a minor, G.S. 14-190.17; Third degree sexual
2 exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a
3 minor, G.S. 14-190.18; Participating in prostitution of a minor,
4 G.S. 14-190.19; Taking indecent liberties with children,
5 G.S. 14-202.1; Solicitation of child by computer to commit an
6 unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a
7 student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse
8 under G.S. 14-318.4. The Board shall mail notice of its intent to act
9 pursuant to this subdivision by certified mail, return receipt requested,
10 directed to the teacher or school administrator at their last known
11 address. The notice shall inform the teacher or school administrator
12 that it will revoke the person's certificate unless the teacher or school
13 administrator notifies the Board in writing within 10 days after receipt
14 of the notice that the defendant identified in the criminal record is not
15 the same person as the teacher or school administrator. If the teacher or
16 school administrator provides this written notice to the Board, the
17 Board shall not revoke the certificate unless it can establish as a fact
18 that the defendant and the teacher or school administrator are the same
19 person.

20 (3) In addition, the State Board may revoke or refuse to renew a teacher's
21 certificate when:

- 22 a. The Board identifies the school in which the teacher is
23 employed as low-performing under G.S. 115C-105.37 or
24 G.S. 143B-146.5; and
- 25 b. The assistance team assigned to that school makes the
26 recommendation to revoke or refuse to renew the teacher's
27 certificate for one or more reasons established by the State
28 Board in its rules for certificate suspension or revocation.

29 The State Board may issue subpoenas for the purpose of obtaining documents or the
30 testimony of witnesses in connection with proceedings to suspend or revoke certificates.
31 In addition, the Board shall have the authority to contract with individuals who are
32 qualified to conduct investigations in order to obtain all information needed to assist the
33 Board in the proper disposition of allegations of misconduct by certificated persons.

34 (e) Mentor Program. – The State Board of Education shall develop a mentor
35 program to provide ongoing support for teachers entering the profession. In developing
36 the mentor program, the State Board shall conduct a comprehensive study of the needs
37 of new teachers and how those needs can be met through an orientation and mentor
38 support program. For the purpose of helping local boards to support new teachers, the
39 State Board shall develop and distribute guidelines which address optimum teaching
40 load, extracurricular duties, student assignment, and other working condition
41 considerations. These guidelines shall provide that initially certified teachers not be
42 assigned extracurricular activities unless they request the assignments in writing and
43 that other noninstructional duties of these teachers be minimized. The State Board shall
44 develop and coordinate a mentor teacher training program. The State Board shall
45 develop criteria for selecting excellent, experienced, and qualified teachers to be
46 participants in the mentor teacher training program.

47 (f) Masters/Advanced Competencies Certificate. – The State Board of Education,
48 after consultation with the Board of Governors of The University of North Carolina,
49 shall develop a new category of teacher certificate known as the "Masters/Advanced
50 Competencies" certificate. To receive this certificate, an applicant shall successfully
51 complete a masters degree program that includes rigorous academic preparation in the
52 subject area which the applicant will teach and in the skills and knowledge expected of

1 a master teacher or the applicant shall demonstrate to the satisfaction of the State Board
2 that the candidate has acquired the skills and knowledge expected of a master teacher.

3 Persons who qualify for a "G" certificate prior to September 1, 2000, shall be
4 awarded a "Masters/Advanced Competencies" certificate without meeting additional
5 requirements. On and after September 1, 2000, no additional "G" certificates shall be
6 awarded.

7 (g) Provisional Licenses, Temporary Permits, and Emergency Permits. –
8 Notwithstanding any other provision of this section, the State Board of Education shall
9 continue to issue provisional licenses, temporary permits, and emergency permits that
10 are valid through June 30, 2006, on the same basis as they were issued prior to July 1,
11 2005."

12 **SECTION 7.50.(b)** This section is effective when it becomes law and
13 applies to all persons initially employed as teachers by a local school administrative unit
14 in North Carolina beginning with the 2005-2006 school year.

15
16 Requested by: Representatives Jeffus, Tolson, Yongue

17 **REDIRECT REFUNDABLE SALES TO STATE PUBLIC SCHOOL FUND**

18 **SECTION 7.51.(a)** G.S. 105-164.14(c)(2b) and (2c) are repealed.

19 **SECTION 7.51.(b)** Part 8 of Article 5 of Chapter 105 of the General
20 Statutes is amended by adding a new section to read:

21 **"§ 105-164.44H. Transfer to State Public School Fund.**

22 Each fiscal year, the Secretary of Revenue shall transfer at the end of each quarter
23 from the State sales and use tax net collections received by the Department of Revenue
24 under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the
25 State Public School Fund, one-fourth of the amount transferred the preceding fiscal year
26 plus or minus the percentage of that amount by which the total collection of State sales
27 and use taxes increased or decreased during the preceding fiscal year."

28 **SECTION 7.51.(c)** Subsection (b) of this section becomes effective July 1,
29 2006. Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal
30 year, the amount transferred to the State Public School Fund each quarter shall equal
31 one-fourth of the amount refunded under G.S. 105-164.4(c)(2b) and (2c) during the
32 2005-2006 fiscal year plus or minus the percentage of that amount by which the total
33 collection of State sales and use tax increased or decreased during the preceding fiscal
34 year. The remainder of this section becomes effective July 1, 2005, and applies to sales
35 made on or after that date.

36
37 Requested by: Representatives Jeffus, Tolson, Yongue

38 **SMALL SPECIALTY HIGH SCHOOLS PILOT PROGRAM**

39 **SECTION 7.52.(a)** Funds are appropriated in this act for a pilot program to
40 create 11 small specialty high schools within existing schools. The purpose of the
41 program is to improve graduation rates and to achieve higher student performance as
42 measured by standard tests and postgraduate gainful employment or admission into an
43 institution of higher education. The State Board of Education shall work closely with
44 the Education Cabinet and the New Schools Project in administering the program.

45 **SECTION 7.52.(b)** The State Board of Education shall conduct an evaluation
46 of this program. The evaluation shall include measures as identified in
47 G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel
48 resources were utilized and their impact on student achievement, retention, and
49 employability; and (ii) recommendations for improvement of the program. The State
50 Board of Education shall report the results of this evaluation to the Office of State
51 Budget and Management, the Joint Legislative Education Oversight Committee, and the
52 Fiscal Research Division by November 15, 2006.

1 Requested by: Representatives Jeffus, Tolson, Yongue

2 **ENSURE DHHS SCHOOLS RECEIVE FEDERAL FUNDS**

3 **SECTION 7.54.(a)** It is the intent of the General Assembly that the schools
4 operated by the Department of Health and Human Services participate in federal
5 funding to the same degree as other public schools in the State. The Department of
6 Public Instruction shall ensure that the Department of Health and Human Services
7 schools receive a proportionate share of federal funds for public schools.

8 **SECTION 7.54.(b)** G.S. 115C-66 reads as rewritten:

9 **"§ 115C-66. Administrative units classified.**

10 Each county of the State shall be classified as a county school administrative unit,
11 the schools of which, except in city administrative units, shall be under the general
12 supervision and control of a county board of education with a county superintendent as
13 the administrative officer.

14 A city school administrative unit shall be classified as an area within a county or
15 adjacent parts of two or more contiguous counties which has been or may be approved
16 by the State Board of Education as such a unit for purposes of school administration.
17 The general administration and supervision of a city administrative unit shall be under
18 the control of a board of education with a city superintendent as the administrative
19 officer.

20 All local school administrative units, whether city or county, shall be dealt with by
21 the State school authorities in all matters of school administration in the same way.

22 For purposes of eligibility for federal grant funds, the Department of Health and
23 Human Services is hereby classified as a public authority, which is the school
24 administrative agency for the schools that it operates, and shall be considered as such by
25 the State school authorities in the administration and distribution of federal grant funds."

26 **SECTION 7.54.(c)** The Department of Health and Human Services shall
27 report on the use, type, and amount of funds received from federal funding and other
28 Department of Public Instruction funding under this section to the House of
29 Representatives Appropriations Subcommittee on Health and Human Services, the
30 Senate Appropriations Committee on Health and Human Services, and the Fiscal
31 Research Division by January 31, 2006.

32 Requested by: Representatives Jeffus, Tolson, Yongue

33 **ESTABLISH THE OFFICE OF SCHOOL READINESS IN THE DEPARTMENT**
34 **OF PUBLIC INSTRUCTION**

35 **SECTION 7.55.(a)** An Office of School Readiness shall be established in
36 the Department of Public Instruction to ensure school readiness for North Carolina's
37 children through increased coordination and effectiveness of the State's public
38 prekindergarten programs and through improved transitions for at-risk children into
39 kindergarten. The Office of School Readiness shall have oversight of public
40 prekindergarten programs serving three- and four-year-olds, which includes the More at
41 Four prekindergarten programs, exceptional children's preschool programs, Head Start
42 programs, and other public school prekindergarten programs funded through State and
43 federal sources. The position of Executive Director for the More at Four
44 prekindergarten program shall become an Associate Superintendent in the Department
45 of Public Instruction and will oversee and direct the Office of School Readiness. This
46 position shall report to the Deputy State Superintendent in the Department of Public
47 Instruction. The Office of School Readiness shall coordinate closely with the Division
48 of Child Development in the Department of Health and Human Services on standards,
49 licensing, training, and other issues related to school readiness programs. The Office of
50 School Readiness shall also work closely with the North Carolina Partnership for
51 Children, Inc., in coordinating programs at the local level and on other issues related to
52 prekindergarten education.
53

1 **SECTION 7.55.(b)** The More at Four prekindergarten program shall be
2 transferred from the Office of the Governor to the Department of Public Instruction and
3 will become part of the Office of School Readiness. This transfer shall have all the
4 elements of a Type I transfer, as defined in G.S. 143A-6.

5 **SECTION 7.55.(c)** The Head Start Collaboration Office shall be transferred
6 from the Department of Health and Human Services to the Office of School Readiness.

7 **SECTION 7.55.(d)** The More at Four Task Force shall be reconstituted and
8 renamed the North Carolina School Readiness Task Force. The Superintendent of
9 Public Instruction and the Secretary of the Department of Health and Human Services
10 shall appoint the members of the North Carolina School Readiness Task Force from
11 representatives of publicly funded prekindergarten programs and services, including the
12 More at Four prekindergarten program, preschool programs in the public schools, Head
13 Start, the North Carolina Partnership for the Children, Inc., as well as other
14 stakeholders, including Early Intervention and the Division of Child Development.

15 **SECTION 7.55.(e)** The State Board of Education, in consultation with the
16 Office of the Governor and the Department of Health and Human Services, shall
17 develop an organizational plan for the Office of School Readiness. The plan shall
18 include the staffing structure and budget of the Office of School Readiness, including
19 the role in the Office of School Readiness of current Department of Public Instruction
20 positions funded by Title I and IDEA Part B federal programs. The State Board of
21 Education shall submit a progress report by January 15, 2006, and a final report by
22 April 1, 2006, to the President Pro Tempore of the Senate, the Speaker of the House of
23 Representatives, and the Joint Legislative Education Oversight Committee.

24 **SECTION 7.55.(f)** This section becomes effective July 1, 2006, for
25 organizational and budgetary changes.

26
27 Requested by: Representatives Jeffus, Tolson, Yongue

28 **PURCHASES FOR THE STUDENT TRANSPORTATION SYSTEM**

29 **SECTION 7.56.** G.S. 115C-522(a) reads as rewritten:

30 "(a) It shall be the duty of local boards of education to purchase or exchange all
31 supplies, equipment, and materials, and these purchases shall be made in accordance
32 with Article 8 of Chapter 143 of the General Statutes. These purchases may be made
33 from contracts made by the Department of Administration. Title to instructional
34 supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense
35 fund budget and purchased out of State funds, shall be taken in the name of the local
36 board of education which shall be responsible for the custody and replacement:
37 Provided, that no contracts shall be made by any local school administrative unit for
38 purchases unless provision has been made in the budget of the unit to pay for the
39 purchases, unless surplus funds are on hand to pay for the purchases, or unless the
40 contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate
41 funds are available to pay in the current fiscal year the sums obligated for the current
42 fiscal year.

43 Tires for the student transportation system shall be purchased from the statewide
44 term contract. The State Board of Education shall adopt rules regarding equipment
45 standards for other supplies, equipment, and materials related to student ~~transportation.~~
46 ~~The transportation.~~

47 The State Board may adopt guidelines for any commodity that needs safety features.
48 If a commodity that needs safety features is available on statewide term contract, any
49 guidelines adopted by the State Board must at a minimum meet the safety standards of
50 the statewide term contract. Compliance with Article 8 of Chapter 143 of the General
51 Statutes is not mandatory for the purchase of published books, manuscripts, maps,
52 pamphlets, and periodicals.

- 1 (1) Where competition is available, local school administrative units may
 2 utilize the:
 - 3 a. E-Quote service of the NC E-Procurement system as one means
 4 of solicitation in seeking informal bids for purchases subject to
 5 the bidding requirements of G.S. 143-131; and
 - 6 b. Division of Purchase and Contract's electronic Interactive
 7 Purchasing System as one means of advertising formal bids on
 8 purchases subject to the bidding requirements of G.S. 143-129
 9 and applicable rules regarding advertising. This sub-subdivision
 10 does not prohibit a local school administrative unit from using
 11 other methods of advertising.
- 12 (2) In order to provide an efficient transition of purchasing procedures, the
 13 Secretary of the Department of Administration and the local school
 14 administrative units shall establish a local school administrative unit
 15 purchasing user group. The user group shall be comprised of a
 16 proportionate number of representatives from the Department of
 17 Administration and local school administrative unit purchasing and
 18 finance officers. The user group shall examine any issues that may
 19 arise between the Department of Administration and local school
 20 administrative units, including the new relationship between the
 21 Department and the local school administrative units, the appropriate
 22 exchange of information, the continued efficient use of
 23 E-Procurement, appropriate bid procedures, and any other technical
 24 assistance that may be necessary for the purchase of supplies and
 25 materials."
 26

27 Requested by: Representative Dickson

28 **STUDY OF SCHOOL TRANSPORTATION**

29 **SECTION 7.57.** Of the funds appropriated for Low-Wealth Supplemental
 30 Funding for the 2005-2006 fiscal year, the Department of Public Instruction shall use up
 31 to two hundred thousand dollars (\$200,000) for a study of the current allotment formula
 32 for school transportation. The study shall be conducted by an independent consultant.

33 In the course of the study, the consultant shall consider whether (i) the current
 34 formula sufficiently encourages the efficient and effective use of school transportation
 35 funds by urban and rural school systems, (ii) the formula is adequately and equitably
 36 meeting the needs of school systems, and (iii) the formula is appropriate in light of the
 37 Leandro litigation. The consultant shall also propose options for reducing the severe and
 38 growing disparity in funding that exists under the formula among local school
 39 administrative units.

40 The consultant shall report the results of its study to the State Board of
 41 Education by December 1, 2005. The State Board of Education shall consider the
 42 consultant's report and shall report its recommendations to the Joint Legislative
 43 Education Oversight Committee by March 15, 2006.
 44

45 Requested by: Representative Hilton

46 **AUTHORIZATION FOR ADDITIONAL CHARTER SCHOOLS**

47 **SECTION 7.58.(a)** G.S. 115C-238.29D(b) reads as rewritten:

48 "(b) The State Board shall authorize no more than five charter schools per year in
 49 one local school administrative unit. The State Board shall authorize no more than ~~100~~
 50 110 charter schools ~~statewide~~ statewide for the 2005-2006 fiscal year, 120 for the 2006-
 51 2007 fiscal year, and 130 for the 2007-2008 and subsequent fiscal years. If more than
 52 five charter schools in one local school administrative unit or more than ~~100~~ the
 53 maximum number of schools permitted statewide meet the standards for final approval,

1 the State Board shall give priority to applications that are most likely to further State
2 education policies and to strengthen the educational program offered in the local school
3 administrative units in which they are located."

4 **SECTION 7.58.(b)** This section shall become effective only if North
5 Carolina receives a federal grant under the Public Charter Schools Program for start-up
6 funds for charter schools for the 2005-2006 fiscal year.

7
8 Requested by: Representative Daughtry

9 **SCHOOLS MUST SPEND UP TO 60% OF EXPANSION FUNDS IN THE**
10 **CLASSROOM**

11 **SECTION 7.59.** It is the intent of the General Assembly that each local
12 administrative unit spends at least sixty percent (60%) of the State expansion budget
13 funding it receives in the classroom. Expenditures in the classroom shall include
14 expenditures for instructional personnel and for supplies, equipment, textbooks, and
15 materials in the classroom.

16 The State Board of Education shall monitor these expenditures and report to
17 the Joint Legislative Education Oversight Committee prior to September 15, 2006, and
18 September 15, 2007, on local school administrative units that do not comply with this
19 intent.

20
21 **PART VIII. COMMUNITY COLLEGES**

22
23 Requested by: Representatives Jeffus, Tolson, Yongue

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

25 **SECTION 8.1.(a)** Funds appropriated to the Community Colleges System
26 Office for the College Information System Project shall not revert at the end of the
27 2004-2005 fiscal year but shall remain available until expended.

28 **SECTION 8.1.(b)** The Community Colleges System Office shall report on a
29 quarterly basis to the Joint Legislative Education Oversight Committee on the
30 implementation of the College Information System Project.

31 **SECTION 8.1.(c)** Subsection (a) of this section becomes effective June 30,
32 2005.

33
34 Requested by: Representatives Jeffus, Tolson, Yongue

35 **CARRYFORWARD FOR EQUIPMENT**

36 **SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and
37 Management and cash availability, the North Carolina Community Colleges System
38 Office may carry-forward an amount not to exceed fifteen million dollars (\$15,000,000)
39 of the operating funds that were not reverted in fiscal year 2004-2005 to be reallocated
40 to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall
41 be distributed to colleges consistent with G.S. 115D-31.

42 **SECTION 8.2.(b)** This section becomes effective June 30, 2005.

43
44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL**
46 **STAFF**

47 **SECTION 8.3.(a)** The minimum salaries for community college faculty
48 shall be based on the following education levels:

- 49 (1) Vocational Diploma/Certificate or Less. – This education level
50 includes faculty members who are high school graduates, have
51 vocational diplomas, or have completed one year of college.

- 1 (2) Associate Degree or Equivalent. – This education level includes
- 2 faculty members who have an associate degree or have completed two
- 3 or more years of college but have no degree.
- 4 (3) Bachelors Degree.
- 5 (4) Masters Degree or Education Specialist.
- 6 (5) Doctoral Degree.

7 **SECTION 8.3.(b)** For the 2005-2006 school year, the minimum salaries for
 8 nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary <u>2005-2006</u>
Vocational Diploma/Certificate or Less	\$29,795
Associate Degree or Equivalent	\$30,246
Bachelors Degree	\$32,204
Masters Degree or Education Specialist	\$33,940
Doctoral Degree	\$36,443

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

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

20 **SECTION 8.3.(c)**

- 21 (1) It is the intent of the General Assembly to encourage community
- 22 colleges to make faculty salaries a priority and to reward colleges that
- 23 have taken steps to achieve the national average, therefore:
- 24 a. If the average faculty salary at a community college is one
- 25 hundred percent (100%) or more of the national average
- 26 community college faculty salary, the college may transfer up
- 27 to eight percent (8%) of the State funds allocated to it for
- 28 faculty salaries.
- 29 b. If the average faculty salary at a community college is at least
- 30 ninety-five percent (95%) but less than one hundred percent
- 31 (100%) of the national average community college faculty
- 32 salary, the college may transfer up to six percent (6%) of the
- 33 State funds allocated to it for faculty salaries.
- 34 c. If the average faculty salary at a community college is at least
- 35 ninety percent (90%) but less than ninety-five percent (95%) of
- 36 the national average community college faculty salary, the
- 37 college may transfer up to five percent (5%) of the State funds
- 38 allocated to it for faculty salaries.
- 39 d. If the average faculty salary at a community college is at least
- 40 eighty-five percent (85%) but less than ninety percent (90%) of
- 41 the national average community college faculty salary, the
- 42 college may transfer up to three percent (3%) of the State funds
- 43 allocated to it for faculty salaries.
- 44 e. If the average faculty salary at a community college is
- 45 eighty-five percent (85%) or less of the national average
- 46 community college faculty salary, the college may transfer up
- 47 to two percent (2%) of the State funds allocated to it for faculty
- 48 salaries.

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

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

8 (3) A local community college may use all State funds allocated to it
9 except for Literacy Funds and Funds for New and Expanding Industry
10 Training to increase faculty salaries.

11 **SECTION 8.3.(d)** As used in this section:

12 (1) "Average faculty salary at a community college" means the total
13 nine-month salary from all sources of all nine-month, full-time,
14 curriculum faculty at the college, as determined by the North Carolina
15 Community College System on October 1 of each year.

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

20 **SECTION 8.3.(e)** The State Board of Community Colleges shall adopt rules
21 to implement the provisions of this section.

22 **SECTION 8.3.(f)** The State Board of Community Colleges shall report to
23 the appropriations subcommittees on education, the Speaker of the House of
24 Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division,
25 and the Office of State Budget and Management by December 1, 2005, and every year
26 thereafter through December 1, 2009, on the implementation of this section.

27 **SECTION 8.3.(g)** Funds appropriated in this act for salary increases shall be
28 used to increase faculty and professional staff salaries by an average of two percent
29 (2%). These increases are in addition to other salary increases provided for in this act
30 and shall be calculated on the average salaries prior to the issuance of the compensation
31 increase. Colleges may provide additional increases from funds available.

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

36
37 Requested by: Representatives Jeffus, Tolson, Yongue

38 **WORKFORCE DEVELOPMENT PROGRAMS**

39 **SECTION 8.4.(a)** Article 1 of Chapter 115D of the General Statutes is
40 amended by adding a new G.S. 115D-5.1 to be entitled "Workforce Development
41 Programs"; G.S. 115D-5(d) is recodified as G.S. 115D-5.1(a); G.S. 115D-5(k) is
42 recodified as G.S. 115D-5.1(b); and G.S. 115D-5(i) is recodified as G.S. 115D-5.1(c).

43 **SECTION 8.4.(b)** G.S. 115D-5.1, as enacted by subsection (a) of this
44 section, reads as rewritten:

45 **"§ 115D-5.1. Workforce Development Programs.**

46 (a) Community colleges shall assist in the preemployment and in-service training
47 of employees in industry, business, agriculture, health occupation and governmental
48 agencies. Such training shall include instruction on worker safety and health standards
49 and practices applicable to the field of employment. The State Board of Community
50 Colleges shall make appropriate regulations including the establishment of maximum
51 hours of instruction which may be offered at State expense in each in-plant training
52 program. No instructor or other employee of a community college shall engage in the
53 normal management, supervisory and operational functions of the establishment in

1 which the instruction is offered during the hours in which the instructor or other
2 employee is employed for instructional or educational purposes.

3 (b) The North Carolina Community College System's New and Expanding
4 Industry Training (NEIT) Program Guidelines, which were adopted by the State Board
5 of Community Colleges on April 18, 1997, apply to all funds appropriated for the
6 Program after June 30, 1997. A project approved as an exception under these
7 Guidelines, or these Guidelines as modified by the State Board of Community Colleges,
8 shall be approved for one year only.

9 (c) The State Board of Community Colleges shall report to the Joint Legislative
10 Education Oversight Committee on September 1 of each year on expenditures for the
11 New and Expanding Industry Training Program each fiscal year. The report shall
12 include, for each company or individual that receives funds for the New and Expanding
13 Industry Training Program:

- 14 (1) The total amount of funds received by the company or individual;
- 15 (2) The amount of funds per trainee received by the company or
16 individual;
- 17 (3) The amount of funds received per trainee by the community college
18 training the trainee;
- 19 (4) The number of trainees trained by company and by community
20 college; and
- 21 (5) The number of years the companies or individuals have been funded.

22 (d) Funds available to the New and Expanding Industry Training Program shall
23 not revert at the end of a fiscal year but shall remain available until expended.

24 (e) There is created within the North Carolina Community College System the
25 Customized Industry Training (CIT) Program. The CIT Program shall offer programs
26 and training services as new options for assisting existing business and industry to
27 remain productive, profitable, and within the State. Before a business or industry
28 qualifies to receive assistance under the CIT Program, the President of the North
29 Carolina Community College System shall determine that:

- 30 (1) The business is making an appreciable capital investment;
- 31 (2) The business is deploying new technology; and
- 32 (3) The skills of the workers will be enhanced by the assistance.

33 The State Board shall report on an annual basis to the Joint Legislative Education
34 Oversight Committee on:

- 35 (1) The total amount of funds received by a company under the CIT
36 Program;
- 37 (2) The amount of funds per trainee received by that company;
- 38 (3) The amount of funds received per trainee by the community college
39 delivering the training;
- 40 (4) The number of trainees trained by the company and community
41 college; and
- 42 (5) The number of years that company has been funded.

43 The State Board shall adopt rules and policies to implement this section."

44 **SECTION 8.4.(c)** Notwithstanding any other provision of law, the State
45 Board of Community Colleges may use funds appropriated to it for the New and
46 Expanding Industry Training Program to operate programs under the Customized
47 Industry Training Program.

48 **SECTION 8.4.(d)** G.S. 115D-5.1(d), as enacted by this section, becomes
49 effective June 30, 2005.

50
51 Requested by: Representatives Jeffus, Tolson, Yongue

52 **REPORT ON THE ADEQUACY OF MULTICAMPUS FUNDS**

1 **SECTION 8.5.** The General Assembly finds that additional data are needed
2 to determine the adequacy of multicampus and off-campus center funds; therefore,
3 multicampus colleges and colleges with off-campus centers shall report annually,
4 beginning September 1, 2005, to the Community Colleges System Office on all
5 expenditures by line item of funds used to support their multicampuses and off-campus
6 centers. The Community Colleges System Office shall report on these expenditures to
7 the Education Appropriation Subcommittees of the House of Representatives and the
8 Senate, the Office of State Budget and Management, and the Fiscal Research Division
9 by October 1 of each year.

10 Notwithstanding any other provision of law, funds appropriated to the
11 Community Colleges System Office for multicampus colleges or off-campus centers
12 shall be used only for the administration of the multicampus college or off-campus
13 center for which the funds were allotted. These funds shall not be transferred to any
14 other campus or center, or used for any other purpose.

15
16 Requested by: Representatives Jeffus, Tolson, Yongue

17 **EDUCATION PROGRAM AUDITING FUNCTION**

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

19 "~~(m) The State Board of Community Colleges shall require auditors of community~~
20 ~~college programs to use a statistically valid sample size in performing program audits of~~
21 ~~community colleges. The State Board of Community Colleges shall maintain an~~
22 ~~education program auditing function that conducts an annual audit of each community~~
23 ~~college operating under the provisions of this Chapter. The purpose of the annual audit~~
24 ~~shall be to ensure that college programs and related fiscal operations comply with State~~
25 ~~law, State regulations, State Board policies, and System Office guidance. The State~~
26 ~~Board of Community Colleges shall require auditors of community college programs to~~
27 ~~use a statistically valid sample size in performing program audits of community~~
28 ~~colleges. All education program audit findings shall be forwarded to the college~~
29 ~~president, local college board of trustees, the State Board of Community Colleges, and~~
30 ~~the State Auditor. The State Board shall assess a twenty-five percent (25%) fiscal~~
31 ~~penalty in addition to the audit exception on all audits of both dollars and student~~
32 ~~membership hours excepted when the audit exceptions result from nonprocessing~~
33 ~~errors."~~

34
35 Requested by: Representatives Jeffus, Tolson, Yongue

36 **FERRY BOAT OPERATOR TRAINING FEASIBILITY STUDY**

37 **SECTION 8.7.(a)** The State Board of Community Colleges, in consultation
38 with the Ferry Division of the Department of Transportation, shall study the need for
39 training for ferry boat operators. In conducting the study, the State Board shall consider
40 the following:

- 41 (1) Types of training needed and whether it is feasible for the community
42 colleges to provide this training.
- 43 (2) Estimated number of students.
- 44 (3) Estimated employment opportunities for the students.
- 45 (4) Start-up costs for the program and resources for those costs.
- 46 (5) Location of the training.

47 **SECTION 8.7.(b)** The State Board shall report to the Joint Legislative
48 Education Oversight Committee and the Joint Legislative Transportation Oversight
49 Committee on its findings and recommendations no later than December 1, 2005.

50
51 Requested by: Representatives Jeffus, Tolson, Yongue

52 **EXTEND THE SUNSET ON TRAINING AND REEMPLOYMENT**
53 **CONTRIBUTIONS MADE BY EMPLOYERS**

1 **SECTION 8.8.(a)** Section 8 of S.L. 1999-321, as amended by Section
 2 30.5(f) of S.L. 2001-424, reads as rewritten:

3 "Section 8. Section 1 of this act is effective with respect to calendar quarters
 4 beginning on or after April 1, 1999. Section 7 of this act becomes effective July 1, 1999.
 5 The remainder of this act is effective with respect to calendar quarters beginning on or
 6 after January 1, 2000. ~~G.S. 96-6.1, as enacted by Section 2 of this act, is repealed~~
 7 ~~effective with respect to calendar quarters beginning on or after January 1, 2006."~~

8 **SECTION 8.8.(b)** G.S. 96-6.1 is amended by adding a new subsection to
 9 read:

10 "(c) Sunset. – This section is repealed effective with respect to calendar quarters
 11 beginning on or after January 1, 2011."

12
 13 Requested by: Representatives Jeffus, Tolson, Yongue

14 **DEFENSE TECHNOLOGY INNOVATION CENTER**

15 **SECTION 8.11.** Funds appropriated in this act for North Carolina
 16 Electronics and Information Technologies Association's Defense Technology
 17 Innovation Center shall be used for the following:

- 18 (1) Site selection and acquisition, including the purchase or lease of real
 19 property to house the Center; the construction of buildings or other site
 20 structures; the improvement or refurbishment of existing structures to
 21 provide appropriate laboratory and administrative space; and the
 22 improvement of existing infrastructure at the facility, including
 23 improvements to utility, telecommunications, and Internet
 24 infrastructure.
- 25 (2) Equipment acquisition, including acquisition of laboratory equipment
 26 and supplies and office furniture, equipment, and supplies.
- 27 (3) Employment of staff to support the mission of the Center and to
 28 oversee day-to-day operations of the Center.
- 29 (4) Implementation of a comprehensive business and marketing plan for
 30 the Center.
- 31 (5) Development of a tenant screening process and the recruitment of
 32 appropriate tenants for the Center.
- 33 (6) Administration and operation of the Center and the development of a
 34 sustainable business plan for the Center.

35
 36 Requested by: Representatives Jeffus, Tolson, Yongue

37 **COMMUNITY COLLEGE CAPITAL FUNDS**

38 **SECTION 8.12.** Notwithstanding G.S. 115D-31 or any other provision of
 39 law, funds appropriated in this act for community college capital projects do not have to
 40 be matched by local funds.

41
 42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **IMPLEMENT PROPRIETARY SCHOOLS LICENSING FEE INCREASE**

44 **SECTION 8.14.** The State Board of Community Colleges may implement an
 45 increase in fees for licensing of proprietary schools in accordance with the following fee
 46 schedule adopted by the State Board of Community Colleges on November 18, 2004:

47		
48	Initial License Fee	\$2,500
49	License Renewal Fee	\$1,250 plus \$50.00 per program
50	Program Addition Fee	\$200.00
51	Single Course Addition Fee	\$200.00
52	Relocation/Site Visit Fee	\$400.00
53	Remote Site Initial Fee	\$1,000

1	Remote Site Renewal Fee	\$750.00
2	Site Assessment	\$200.00

3
4 Requested by: Representatives Jeffus, Tolson, Yongue
5 **EXEMPT COMMUNITY COLLEGE MASSAGE AND BODYWORK**
6 **THERAPY PROGRAMS FROM LICENSURE BY THE NORTH CAROLINA**
7 **BOARD OF MASSAGE AND BODYWORK THERAPY**

8 **SECTION 8.15.** G.S. 90-631 reads as rewritten:

9 **"§ 90-631. Massage and bodywork therapy schools.**

10 (a) The Board shall establish rules for the approval of massage and bodywork
11 therapy schools. These rules shall include:

- 12 (1) Basic curriculum standards that ensure graduates have the education
13 and skills necessary to carry out the safe and effective practice of
14 massage and bodywork therapy.
- 15 (2) Standards for faculty and learning resources.
- 16 (3) Requirements for reporting changes in instructional staff and
17 curriculum.
- 18 (4) A description of the process used by the Board to approve a school.

19 Any school that offers a training program in massage and bodywork therapy may
20 make application for approval to the Board. The Board shall grant approval to schools,
21 whether in this State or another state, that meet the criteria established by the Board.
22 The Board shall maintain a list of approved ~~schools~~ schools and a list of community
23 college programs operating pursuant to subsection (b) of this section.

24 (b) A massage and bodywork therapy program operated by a North Carolina
25 community college that is accredited by the Southern Association of Colleges and
26 Schools is exempt from the approval process, licensure process, or both, established by
27 the Board. The college shall certify annually to the Board that the program meets or
28 exceeds the minimum standards for curriculum, faculty, and learning resources
29 established by the Board. Students who complete the program shall qualify for licenses
30 from the Board as if the program were approved, licensed, or both, by the Board.

31 (c) A massage and bodywork therapy program operated by a degree or diploma
32 granting college or university that offers a degree or diploma in massage therapy and is
33 accredited by any accrediting agency that is recognized by the United States Department
34 of Education and is licensed by the North Carolina Community College System or The
35 University of North Carolina Board of Governors is exempt from the approval process,
36 licensure process, or both, established by the Board. The college or university shall
37 certify annually to the Board that the program meets or exceeds the minimum standards
38 for curriculum, faculty, and learning resources established by the Board. Students who
39 complete the program shall qualify for licenses from the Board as if the program were
40 approved, licensed, or both, by the Board."

41
42 **PART IX. UNIVERSITIES**

43
44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **UNC BUDGET REDUCTION REPORT**

46 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
47 the Board of Governors of The University of North Carolina on the reductions made to
48 the General Fund budget codes in order to meet the reduction amounts for that
49 institution, including the positions eliminated and the actions taken on nonpersonnel
50 costs. The President of The University of North Carolina shall report to the Board of
51 Governors of The University of North Carolina on the reductions made to the General
52 Fund budget codes controlled by the Board in order to meet the reduction amounts for
53 those entities. The report shall include the positions eliminated and the actions taken on

1 nonpersonnel costs to achieve the reductions. The Board of Governors shall make a
2 summary report to the Office of State Budget and Management and the Fiscal Research
3 Division by December 31, 2005, on all reductions made by these entities and constituent
4 institutions in order to reduce the budgets by the targeted amounts. The report shall
5 include the positions eliminated and the actions taken on nonpersonnel costs to achieve
6 the reductions.

7
8 Requested by: Representatives Jeffus, Tolson, Yongue

9 **ENROLLMENT GROWTH FUND/ENCOURAGE PARTNERSHIPS FOR NEW**
10 **2 + 2 PROGRAMS**

11 **SECTION 9.2.(a)** Of the funds appropriated by this act to the Board of
12 Governors of The University of North Carolina, the sum of eighteen million
13 eighty-seven thousand four hundred sixty-three dollars (\$18,087,463) for the 2005-2006
14 fiscal year and the sum of eighteen million eighty-seven thousand four hundred
15 sixty-three dollars (\$18,087,463) for the 2006-2007 fiscal year shall be held in reserve
16 to be used for distance education programs for undergraduate and graduate students.
17 The Board of Governors shall apportion the funds among the programs, as it deems
18 appropriate.

19 The Board of Governors shall report to the Joint Legislative Education
20 Oversight Committee by February 1, 2006, regarding the implementation of this
21 subsection and shall include in its report the following: a list of each program receiving
22 funds under this subsection, the amount received by the program, and the purpose for
23 which the funds were used.

24 **SECTION 9.2.(b)** The University of North Carolina Board of Governors'
25 Task Force on Meeting Teacher Supply and Demand called for the President to develop
26 a plan for enrollment growth in the University System's teacher education programs to
27 respond to the State's shortage of teachers. In a presentation to the Joint Legislative
28 Education Oversight Committee and to the Board of Governors, a commitment was
29 made to increase the number of teacher education graduates in 2005-2006 and in
30 2006-2007. The Office of the President of The University of North Carolina shall obtain
31 plans from each campus as to how they will maintain their current enrollment in the
32 teacher education programs and achieve their growth targets to ensure such increases in
33 those programs occur. Plans may include using enrollment growth funds for targeted
34 admissions, enhanced student support, and advising, recruiting, increases in faculty in
35 necessary instructional areas that lead to certification, and other methods the Office of
36 the President believes will achieve those results. The Office of the President shall report
37 back to the Office of State Budget and Management and the Joint Legislative Education
38 Oversight Committee no later than December 30, 2005, on each campus's plan for
39 increasing teacher education graduates. No later than March 31, 2006, the Office of the
40 President shall submit a report on progress towards meeting this priority for the
41 2006-2007 academic year, based on each campus's current students in the education
42 programs, and the students who have been accepted for the 2006-2007 fiscal year who
43 are enrolling in the education programs. The report shall also explain the distribution of
44 enrollment growth funds by specific initiative.

45 **SECTION 9.2.(c)** The Board of Governors of The University of North
46 Carolina and the State Board of Community Colleges shall strongly encourage the
47 constituent institutions and the community colleges that do not currently have 2 + 2
48 programs that emphasize teacher education to design and enter into formal partnerships
49 to offer those 2 + 2 programs. The Board of Governors and the Board of Community
50 Colleges shall report to the Joint Legislative Education Oversight Committee by
51 February 1, 2006, regarding the status of existing 2 + 2 programs and any new
52 partnerships established.

1 Requested by: Representatives Jeffus, Tolson, Yongue

2 **ENROLLMENT GROWTH FUNDING MODEL**

3 **SECTION 9.4.** The Office of State Budget and Management, jointly with
4 The University of North Carolina and the Fiscal Research Division of the General
5 Assembly, shall conduct a comprehensive review of the enrollment funding model to
6 review the assumptions contained within each element of the formula, to obtain current
7 benchmark information related to specific elements within the formula, and to examine
8 the impact of alternative elements and assumptions. An alternative to the current model
9 shall be the result of this analysis. This alternative shall be used to prepare a request for
10 enrollment growth funding for the budget to be submitted for the 2007 Session of the
11 General Assembly and shall be shown in comparison to the use of the current formula.
12

13 Requested by: Representatives Jeffus, Tolson, Yongue

14 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

15 **SECTION 9.5.** Funds appropriated in this act to The University of North
16 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2
17 E-Learning Initiative shall be used to fund further development of online courses for
18 2+2 programs. Based on a mutually agreed upon decision by the State Board of
19 Education Chairman, the President of the North Carolina Community College System,
20 and the President of The University of North Carolina as to the areas of greatest need,
21 funds are available to support joint technology development, systems to track student
22 progress and articulation between a North Carolina community college and a University
23 of North Carolina campus, and to develop technology to support online courses and 2+2
24 programs.
25

26 Requested by: Representatives Jeffus, Tolson, Yongue

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

28 **SECTION 9.6.(a)** There is appropriated from the Escheat Fund income to
29 the Board of Governors of The University of North Carolina the sum of sixty-seven
30 million two hundred forty-eight thousand sixteen dollars (\$67,248,016) for fiscal year
31 2005-2006 and the sum of sixty-seven million six hundred thirty-eight thousand sixteen
32 dollars (\$67,638,016) for fiscal year 2006-2007; and to the State Board of Community
33 Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two
34 dollars (\$13,981,202) for fiscal year 2005-2006 and the sum of thirteen million nine
35 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year
36 2006-2007. These funds shall be allocated by the North Carolina State Educational
37 Assistance Authority (SEAA) for need-based student financial aid in accordance with
38 G.S. 116B-7.

39 The SEAA shall perform all of the administrative functions necessary to
40 implement this program of financial aid. The SEAA shall conduct periodic evaluations
41 of expenditures of the Scholarship Programs to determine if allocations are utilized to
42 ensure access to institutions of higher learning and to meet the goals of the respective
43 programs. The SEAA may make recommendations for redistribution of funds to The
44 University of North Carolina and the President of the Community College System
45 regarding their respective scholarship programs, who then may authorize redistribution
46 of unutilized funds for a particular fiscal year.

47 **SECTION 9.6.(b)** There is appropriated from the Escheat Fund to the Board
48 of Governors of The University of North Carolina the sum of seven hundred eighty
49 thousand dollars (\$780,000) for the 2005-2006 fiscal year and the sum of one million
50 one hundred seventy thousand dollars (\$1,170,000) for the 2006-2007 fiscal year to be
51 allocated to the SEAA for need-based student financial aid to be used in accordance
52 with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide
53 scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to

1 North Carolina high school seniors interested in preparing to teach in the State's public
2 schools who also enroll at any of the Historically Black Colleges and Universities that
3 do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred
4 dollars (\$6,500) each shall be given to the three universities without any Teaching
5 Fellows for the purposes specified in this subsection.

6 The SEAA shall administer these funds and shall establish any additional
7 criteria needed to award these scholarship loans, the conditions for forgiving the loans,
8 and the collection of the loan repayments when necessary.

9 **SECTION 9.6.(c)** If the interest income generated from the Escheat Fund is
10 insufficient to pay the appropriations made in subsections (a) and (b) of this section, the
11 difference may be taken from the Escheat Fund principal to reach the appropriations
12 referenced in this section; however, under no circumstances shall the Escheat Fund
13 principal be reduced below the sum of four hundred million dollars (\$400,000,000).

14 **SECTION 9.6.(d)** All obligations to students for uses of the funds set out in
15 sections that were made before the date this act becomes law shall be fulfilled as to
16 students who remain eligible under the provisions of the respective programs.

17
18 Requested by: Representatives Jeffus, Tolson, Yongue

19 **STUDY OF DISTANCE EDUCATION**

20 **SECTION 9.7.(a)** The Joint Legislative Education Oversight Committee
21 shall contract with a consultant as provided by G.S. 120-70.82(c) to analyze the distance
22 education programs at the institutions in The University System. The study shall
23 identify any duplication in course and program offerings, leader courses and programs
24 at campuses in a particular area of study, the cost of developing online courses, and
25 determine which campuses are best suited to offer a particular course or program of
26 study. The findings of the study shall be reported to the Joint Legislative Education
27 Oversight Committee no later than April 30, 2006.

28 **SECTION 9.7.(b)** Of the funds appropriated by this act to the Board of
29 Governors of The University of North Carolina for General Administration, the sum of
30 one hundred fifty thousand dollars (\$150,000) for the 2005-2006 fiscal year shall be
31 transferred to the General Assembly to be allocated to the Joint Legislative Education
32 Oversight Committee to implement this section.

33
34 Requested by: Representatives Jeffus, Tolson, Yongue

35 **INFORMATION TECHNOLOGY PROCUREMENT**

36 **SECTION 9.8.** For purposes of purchasing hardware, software licenses, and
37 multiyear maintenance agreements, The University of North Carolina and its constituent
38 institutions may participate in the aggregation of purchasing administered by the Office
39 of State Technology Services, as defined in G.S. 147-33.72F. The Office of State
40 Budget and Management shall conduct a cost comparison study of hardware, software
41 license, and multiyear maintenance agreement purchases made by The University of
42 North Carolina and its constituent institutions and by the Office of State Technology
43 Services, to determine if further aggregation is cost-justified. The Study shall also
44 include an analysis of aggregated purchases by the University System and the effect of
45 educational discounts available to the University System. The report of comparative
46 unit costs shall be completed by December 31, 2005.

47
48 Requested by: Representatives Jeffus, Tolson, Yongue

49 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

50 **SECTION 9.9.(a)** The current Board of Governors' Dental Scholarship
51 Program, under the purview of the Board of Governors of The University of North
52 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
53 loan awards. The Board of Governors' Dental Scholarship Program is administered by

1 the Board of Governors of The University of North Carolina. The Board of Governors'
2 Dental Scholarship Program shall be used to provide a four-year scholarship loan of
3 relevant tuition and fees, mandatory medical insurance, required laptop computers for
4 first-year students, required dental equipment, and an annual payment of five thousand
5 dollars (\$5,000) per year to students who have been accepted for admission to the
6 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may
7 adopt standards, including minimum grade point average and DAT scores, for awarding
8 these scholarship loans to ensure that only the most qualified students receive them.
9 The Board shall make an effort to identify and encourage minority and economically
10 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
11 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
12 per year beginning September 1 after completion of the program, or immediately after
13 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
14 terminated by the recipient withdrawing from school or by the recipient not meeting the
15 standards set by the Board. The Board shall forgive the loan if, within seven years after
16 graduation, the recipient practices dentistry in North Carolina for four years. The Board
17 shall also forgive the loan if it finds that it is impossible for the recipient to practice
18 dentistry in North Carolina for four years, within seven years after graduation, because
19 of the death or permanent disability of the recipient. All unused funds appropriated to
20 or otherwise received by the Board for scholarships, all funds received as repayment of
21 scholarship loans, and all interest earned on these funds shall revert to the General Fund
22 at the end of each fiscal year.

23 **SECTION 9.9.(b)** Any dental scholarship awarded prior to July 1, 2005,
24 shall remain a scholarship and shall not be converted to a scholarship loan unless the
25 recipient agrees to the conversion.
26

27 Requested by: Representatives Jeffus, Tolson, Yongue

28 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

29 **SECTION 9.10.(a)** The current Board of Governors' Medical Scholarship
30 Program, under the purview of the Board of Governors of The University of North
31 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
32 loan awards. The Board of Governors' Medical Scholarship Program is administered by
33 the Board of Governors of The University of North Carolina. The Board of Governors'
34 Medical Scholarship Program shall be used to provide a four-year scholarship loan of
35 relevant tuition and fees, mandatory medical insurance, required laptop computers, and
36 an annual payment of five thousand dollars (\$5,000) per year to students who have been
37 accepted for admission to either Duke University School of Medicine, Brody School of
38 Medicine at East Carolina University, the University of North Carolina at Chapel Hill
39 School of Medicine, or the Wake Forest University School of Medicine. The Board may
40 adopt standards, including minimum grade point average and MCAT scores, for
41 awarding these scholarship loans to ensure that only the most qualified students receive
42 them. The Board shall make an effort to identify and encourage minority and
43 economically disadvantaged youth to enter the program. All scholarship loans shall be
44 evidenced by notes made payable to the Board that shall bear interest at the rate of ten
45 percent (10%) per year beginning September 1 after completion of the program, or
46 immediately after termination of the scholarship loan, whichever is earlier. The
47 scholarship loan may be terminated by the recipient withdrawing from school or by the
48 recipient not meeting the standards set by the Board. The Board shall forgive the loan if,
49 within seven years after graduation, the recipient practices medicine in North Carolina
50 for four years. The Board shall also forgive the loan if it finds that it is impossible for
51 the recipient to practice medicine in North Carolina for four years, within seven years
52 after graduation, because of the death or permanent disability of the recipient. All
53 unused funds appropriated to or otherwise received by the Board for scholarships, all

1 funds received as repayment of scholarship loans, and all interest earned on these funds
2 shall revert to the General Fund at the end of each fiscal year.

3 **SECTION 9.10.(b)** Any medical scholarship awarded prior to July 1, 2005,
4 shall remain a scholarship and shall not be converted to a scholarship loan unless the
5 recipient agrees to the conversion.

6
7 Requested by: Representatives Jeffus, Tolson, Yongue

8 **TEACHER SCHOLARSHIPS FUNDS**

9 **SECTION 9.11.(a)** Article 23 of Chapter 116 of the General Statutes is
10 amended by adding the following new section:

11 **"§ 116-209.38. Future Teachers of North Carolina Scholarship Loan Fund.**

12 (a) There is established the Future Teachers of North Carolina Scholarship Loan
13 Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand
14 five hundred dollars (\$6,500) per year for any North Carolina student pursuing a college
15 degree to teach in the public schools of the State. The scholarship loan shall be paid
16 only for the student's junior and senior years. The scholarship loan is available if the
17 student is enrolled in a State institution of higher education or a private institution of
18 higher education located in this State that has an accredited teacher preparation program
19 for students planning to become certified teachers in North Carolina. The State
20 Education Assistance Authority shall administer the Fund and shall award 100
21 scholarship loans annually.

22 (b) The Board of Governors of The University of North Carolina, in consultation
23 with the State Board of Education and the State Board of Community Colleges, shall
24 develop the criteria for awarding the scholarship loans under this section and shall adopt
25 very stringent standards for awarding these scholarship loans to ensure that only the best
26 students receive them. Additional criteria for awarding a scholarship loan under this
27 section shall include all of the following:

28 (1) The student is one who either: (i) maintained a "B" or better average in
29 college and is enrolled as a junior or senior in a teacher preparation
30 program at any of the institutions described by subsection (a) of this
31 section; or (ii) completed a college transfer curriculum at a community
32 college in the State's community college system, maintained a "B" or
33 better average in the community college courses, and is accepted and
34 enrolled in a teacher preparation program at one of the institutions
35 described by subsection (a) of this section.

36 (2) The student agrees to become certified in math, science, special
37 education, or English as a Second Language and teach full-time in that
38 subject area in a North Carolina public school for four years within
39 five years after graduation.

40 (3) Any additional criteria that the Board of Governors of The University
41 of North Carolina, in consultation with the State Board of Education
42 and the State Board of Community Colleges, considers necessary to
43 administer the Fund effectively.

44 (c) If a student who is awarded a scholarship loan under this section fails to
45 comply with the provisions of this section or the terms of the agreement awarding the
46 scholarship loan, then the student shall repay the full amount of the scholarship loan
47 provided to the student and the appropriate amount of interest as determined by the
48 State Education Assistance Authority.

49 (d) The Board of Governors of The University of North Carolina, the State Board
50 of Education, and the State Board of Community Colleges shall: (i) prepare a clear
51 written explanation of the Future Teachers of North Carolina Scholarship Fund and the
52 information regarding the availability and criteria for awarding the scholarship loans,
53 and (ii) shall provide that information to the appropriate counselors in each local school

1 system and the appropriate institutions of higher education and shall charge those
2 counselors to inform students about the scholarship loans and to encourage them to
3 apply for the scholarship loans.

4 (e) The Board of Governors of The University of North Carolina shall adopt
5 rules to implement this section.

6 (f) The Board of Governors of The University of North Carolina shall report to
7 the Joint Legislative Education Oversight Committee by March 1 each year regarding
8 the Fund and scholarship loans awarded from the Fund."

9 **SECTION 9.11.(b)** Of the funds appropriated in this act to the State
10 Education Assistance Authority, the sum of six hundred fifty thousand dollars
11 (\$650,000) for the 2005-2006 fiscal year and the sum of one million three hundred
12 thousand dollars (\$1,300,000) for the 2006-2007 fiscal year shall be used to implement
13 this act.
14

15 Requested by: Representatives Jeffus, Tolson, Yongue

16 **UNC-ASHEVILLE RETAIN SALE PROCEEDS**

17 **SECTION 9.12.** Notwithstanding any other provision of law, the University
18 of North Carolina at Asheville may retain the proceeds from the sale of its existing
19 chancellor's residence and appurtenant land. The University of North Carolina at
20 Asheville may use the proceeds from the sale of its existing chancellor's residence and
21 the appurtenant land to construct or otherwise acquire a new chancellor's residence.
22 Proceeds from the sale not used for that purpose within two fiscal years of the sale shall
23 revert to the General Fund.
24

25 Requested by: Representatives Jeffus, Tolson, Yongue

26 **UNC BOND PROJECT MODIFICATIONS**

27 **SECTION 9.13.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General
28 Assembly finds that it is in the best interest of the State to respond to current
29 educational and research program requirements at Elizabeth City State University by
30 changing the scope of "Mitchell-Lewis Residence Hall-Comprehensive Renovation" to
31 be a replacement project instead of a renovation. Section 2(a) of S.L. 2000-3 is therefore
32 amended in the portion under Elizabeth City State University by replacing "Mitchell
33 Lewis Residence Hall-Comprehensive Renovation" with "Mitchell Lewis Residence
34 Hall-Replacement."

35 **SECTION 9.13.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General
36 Assembly finds that it is in the best interest of the State to respond to current
37 educational and research program requirements at North Carolina Central University by
38 the cancellation of "Latham Residence Hall-Comprehensive Renovation". The unused
39 monies from "Latham Residence Hall-Comprehensive Renovation" should be
40 transferred to "Eagleson Residence Hall-Comprehensive Renovation". Section 2(a) of
41 S.L. 2000-3 is therefore amended in the portion under North Carolina Central
42 University by reducing the money allocated to "Latham Residence Hall-Comprehensive
43 Renovation" by reducing that amount by two million three hundred seventy-three
44 thousand four hundred fifty-seven dollars (\$2,373,457) to a total of one million
45 thirty-eight thousand one hundred forty-three dollars (\$1,038,143) and by increasing the
46 allocation to "Eagleson Residence Hall-Comprehensive Renovation" by two million
47 three hundred seventy-three thousand four hundred fifty-seven dollars (\$2,373,457) to
48 create a total allocation of nine million two hundred forty-two thousand nine hundred
49 fifty-seven dollars (\$9,242,957).

50 **SECTION 9.13.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
51 Assembly finds that it is in the best interest of the State to respond to current
52 educational and research program requirements at the University of North Carolina at
53 Wilmington by the cancellation of "King Hall Classroom Building-Comprehensive

1 Renovation" and by transferring the unused funds to the following projects listed under
2 the portion entitled University of North Carolina at Wilmington: "Academic &
3 Classroom Facilities," "General Classroom Bldg.", "Hinton James Hall Classroom
4 Bldg.-Comprehensive Renovation," "Friday Hall Laboratory Bldg.-Comprehensive
5 Renovation," "Kenan Auditorium-Comprehensive Renovation." Section 2(a) of S.L.
6 2000-3 is therefore amended in the portion under the University of North Carolina at
7 Wilmington by:

- 8 (1) Reducing the allocation to "King Hall Classroom
9 Building-Comprehensive Renovation" by three million one hundred
10 sixty-eight thousand six hundred eighty-nine dollars (\$3,168,689) to
11 create a total allocation of three hundred fifty-eight thousand seven
12 hundred eleven dollars (\$358,711).
- 13 (2) Increasing the allocation to "General Classroom Building" by six
14 hundred seventy-nine thousand seven hundred seventy-eight dollars
15 (\$679,778) to create a total allocation of thirteen million three hundred
16 twenty-six thousand seven hundred seventy-eight dollars
17 (\$13,326,778).
- 18 (3) Increasing the allocation to "Academic & Classroom Facilities" by
19 nine hundred ninety-one thousand one hundred twenty-three dollars
20 (\$991,123) to create a total allocation of thirty-four million
21 twenty-three thousand two hundred twenty-three dollars
22 (\$34,023,223).
- 23 (4) Increasing the allocation to "Hinton James Hall Classroom
24 Building-Comprehensive Renovation" by one hundred seventy-six
25 thousand six hundred nine dollars (\$176,609) to create a total
26 allocation of two million eight hundred six thousand five hundred
27 sixty-one dollars (\$2,806,561).
- 28 (5) Increasing the allocation to "Kenan Auditorium-Comprehensive
29 Renovation" by one hundred fifty-one thousand seven hundred
30 forty-nine dollars (\$151,749) to create a total allocation of two million
31 seventy-three thousand seven hundred twenty-four dollars
32 (\$2,073,724).
- 33 (6) Increasing the allocation to "Friday Hall Laboratory
34 Building-Comprehensive Renovation" by one million one hundred
35 sixty-nine thousand four hundred thirty dollars (\$1,169,430) to create a
36 total allocation of eight million eight hundred sixty-two thousand eight
37 hundred thirty dollars (\$8,862,830).

38 **SECTION 9.13.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
39 Assembly finds that it is in the best interest of the State to respond to current
40 educational and research program requirements at the University of North Carolina at
41 Pembroke by the cancellation of "West Residence Hall-Comprehensive Renovation"
42 and by transferring the unused funds to a new project, "North and Belk Residence
43 Halls-Fire Safety Improvements and Renovations" and by the cancellation of
44 "Campuswide Infrastructure Improvements" and by transferring those unused funds to a
45 new project, "Biotechnology Teaching Labs and Classroom Building". Section 2(a) of
46 S.L. 2000-3 is therefore amended in the portion under University of North Carolina at
47 Pembroke by:

- 48 (1) Reducing the allocation to "West Residence Hall-Comprehensive
49 Renovation" by eight hundred seventy-nine thousand three hundred
50 dollars (\$879,300) to a total allocation of ninety-eight thousand dollars
51 (\$98,000).
- 52 (2) Reducing the allocation to "Campuswide Infrastructure
53 Improvements" by one million seven hundred thirty thousand three

1 hundred eighty-two dollars (\$1,730,382) to a total allocation of two
2 hundred sixty-six thousand two hundred eighteen dollars (\$266,218).

3 (3) Adding a new project entitled "North and Belk Residence Halls-Fire
4 Safety Improvements and Renovations \$879,300".

5 (4) Adding a new project entitled "Biotechnology Teaching Labs and
6 Classroom Building \$1,730,382".

7 **SECTION 9.13.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General
8 Assembly finds that it is in the best interest of the State to respond to current
9 educational and research program requirements at Western Carolina University by the
10 cancellation of "Killian Education & Allied Professional Bldg.-Partial Renovation" and
11 "Conversion of Old Student Health Center to Residential & Academic Space" and by
12 transferring the unused funds to "Stillwell Lab Bldg.-Comprehensive Renovation".
13 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Western Carolina
14 University by:

15 (1) Reducing the allocation to "Killian Education & Allied Professional
16 Bldg.-Partial Renovation" by one million two hundred ninety-seven
17 thousand nine hundred twenty-four dollars (\$1,297,924) to a total
18 allocation of two hundred forty-eight thousand three hundred
19 seventy-six dollars (\$248,376).

20 (2) Reducing the allocation to "Conversion of Old Student Health Center
21 to Residential & Academic Space" by one million four hundred
22 ninety-six thousand nine hundred forty-five dollars (\$1,496,945) to a
23 total allocation of three hundred ninety thousand one hundred fifty-five
24 dollars (\$390,155).

25 (3) Increasing the allocation to "Stillwell Lab Bldg.-Comprehensive
26 Renovation" by two million seven hundred ninety-four thousand eight
27 hundred sixty-nine dollars (\$2,794,869) to a total allocation of
28 seventeen million eight hundred fifty-two thousand three hundred
29 sixty-nine dollars (\$17,852,369).

30 **SECTION 9.13.(f)** Nothing in this section is intended to supersede any other
31 requirement of law or policy for approval of the substituted capital improvement
32 projects.

33
34 Requested by: Representatives Jeffus, Tolson, Yongue

35 **REPEAL NC SCHOOL OF SCIENCE AND MATH TUITION GRANT**

36 **SECTION 9.14.(a)** G.S. 116-238.1 is repealed.

37 **SECTION 9.14.(b)** This section becomes effective July 1, 2005, but shall
38 not apply to any student who was eligible for a legislative tuition grant under
39 G.S. 116-238.1 before the 2006-2007 academic year. A student who was eligible for the
40 legislative tuition grant before the 2006-2007 academic year shall continue to be eligible
41 for the legislative tuition grant provided the student continues to meet the criteria
42 provided by G.S. 116-238.1.

43
44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE**
46 **UNIVERSITY FUNDS**

47 **SECTION 9.16.** Of the funds appropriated by this act to the Board of
48 Governors of The University of North Carolina for the 2005-2006 fiscal year the sum of
49 one million eighty-eight thousand nine hundred forty-one dollars (\$1,088,941) shall be
50 allocated to North Carolina Agricultural and Technical State University for agricultural
51 and research extension programs. It is the intent of the General Assembly to fully fund
52 these programs for the 2006-2007 fiscal year.
53

1 Requested by: Representatives Jeffus, Tolson, Yongue

2 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**
 3 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**
 4 **EDUCATION ASSISTANCE AUTHORITY**

5 **SECTION 9.17.(a)** The Scholarship Loan Fund for Prospective Teachers is
 6 transferred from the Department of Public Instruction to the State Education Assistance
 7 Authority. This transfer shall have all of the elements of a Type I transfer, as defined in
 8 G.S. 143A-6.

9 **SECTION 9.17.(b)** G.S. 115C-468 is recodified as G.S. 116-209.33.
 10 G.S. 115C-469, 115C-470, and 115C-472.1 are repealed. G.S. 115C-471 is recodified as
 11 G.S. 116-209.34.

12 **SECTION 9.17.(c)** G.S. 115C-468 recodified by subsection (b) of this
 13 section as G.S. 116-209.33 reads as rewritten:

14 "**§ 116-209.33. Establishment of fund, Scholarship Loan Fund for Prospective**
 15 **Teachers.**

16 (a) There is established a revolving fund known as the "Scholarship Loan Fund
 17 for Prospective Teachers". The purpose of the Fund is to provide scholarship loans to
 18 qualified individuals who are pursuing college degrees to become teachers. The State
 19 Education Assistance Authority shall administer the Fund.

20 (b) ~~Criteria~~ The State Education Assistance Authority, in consultation with the
 21 State Board of Education, shall develop criteria for awarding scholarship loans from the
 22 fund shall include measures the Fund. These criteria shall include:

23 (1) Measures of academic performance including grade point averages,
 24 scores on standardized tests, class rank, and recommendations of
 25 guidance counselors and principals.

26 (2) North Carolina residency. – For purposes of this section, residency
 27 shall be determined by the same standard as residency for tuition
 28 purposes pursuant to G.S. 116-143.1.

29 (3) The geographic areas or subjects of instruction in which the demand
 30 for teachers is greatest.

31 (4) To the extent practical, an equal number of scholarships shall be
 32 awarded in each of the State's Congressional Districts.

33 (5) Any additional criteria that the State Education Assistance Authority
 34 considers necessary to administer the Fund effectively, including the
 35 following:

36 a. Consideration of the appropriate numbers of minority applicants
 37 and applicants from diverse socioeconomic backgrounds to
 38 receive scholarships pursuant to this section.

39 b. Consideration of the commitment an individual applying to
 40 receive funds demonstrates to the profession of teaching.

41 (c) ~~The Superintendent of Public Instruction~~ State Education Assistance
 42 Authority may earmark each year up to twenty percent (20%) of the funds available for
 43 scholarship loans each year under this section for awards to applicants who have been
 44 employed for at least one year as teacher assistants and who are currently employed as
 45 teacher assistants. Preference for these scholarship loans from funds earmarked for
 46 teacher assistants shall be given first to applicants who worked as teacher assistants for
 47 at least five years and whose positions as teacher assistants were abolished and then to
 48 applicants who already hold a baccalaureate degree or who have already been formally
 49 admitted to an approved teacher education program in North Carolina. The criteria for
 50 awarding scholarship loans to applicants who worked as teacher assistants for at least
 51 five years and whose positions as teacher assistants were abolished shall include
 52 whether the teacher assistant has been admitted to an approved teacher education

1 ~~program in North Carolina for the Teacher Assistant Scholarship Fund established in~~
2 ~~G.S. 116-209.35.~~

3 ~~The Superintendent of Public Instruction may further earmark a portion of these~~
4 ~~funds each year for two year awards to applicants who have been employed for at least~~
5 ~~one year as teacher assistants to attend community colleges to get other skills of use in~~
6 ~~public schools or to get an early childhood associate degree. The provisions of this~~
7 ~~Article shall apply to these scholarship loans except that a recipient of one of these~~
8 ~~scholarship loans may receive credit upon the amount due by reason of the loan as~~
9 ~~provided in G.S. 115C-471(5) or by working in a nonteaching position in the North~~
10 ~~Carolina public schools or by working in a licensed child care center in North Carolina."~~

11 ~~SECTION 9.17.(d) G.S. 115C-471 recodified by subsection (b) of this~~
12 ~~section as G.S. 116-209.34 reads as rewritten:~~

13 ~~"§ 116-209.34. Fund administered by State Superintendent of Public Instruction;~~
14 ~~rules and regulations. State Education Assistance Authority; rule-making~~
15 ~~authority.~~

16 ~~(a) The Scholarship Loan Fund for Prospective Teachers shall be administered~~
17 ~~by the State Superintendent of Public Instruction, under rules adopted by the State~~
18 ~~Board of Education and subject to the following directions and limitations: The State~~
19 ~~Education Assistance Authority shall establish the terms and conditions for the~~
20 ~~scholarship loans consistent with the following:~~

21 ~~(1) Any resident of North Carolina who is interested in preparing to teach~~
22 ~~in the public schools of the State may apply in writing to the State~~
23 ~~Superintendent of Public Instruction for a regular scholarship loan in~~
24 ~~the amount of not more than two thousand five hundred dollars~~
25 ~~(\$2,500) per academic school year. An applicant who has been~~
26 ~~employed for at least one year as a teacher assistant and who is~~
27 ~~currently employed as a teacher assistant may apply for a scholarship~~
28 ~~loan from funds earmarked for teacher assistants in the amount of not~~
29 ~~more than one thousand two hundred dollars (\$1,200) per academic~~
30 ~~school year. The loan amount shall be not more than four thousand~~
31 ~~dollars (\$4,000) per academic school year for a maximum of four~~
32 ~~years for applicants who are pursuing a college degree to become a~~
33 ~~teacher.~~

34 ~~(2) All scholarship loans shall be evidenced by notes made payable to the~~
35 ~~State Board of Education Authority that bear interest at the rate of ten~~
36 ~~percent (10%) per annum from and after September 1 following~~
37 ~~fulfillment by a prospective teacher of the requirements for a~~
38 ~~certificate based upon the entry level degree; or in the case of persons~~
39 ~~already teaching in the public schools who obtain scholarship loans,~~
40 ~~the notes shall bear interest at the prescribed rate from and after~~
41 ~~September 1 of the school year beginning immediately after the use of~~
42 ~~the scholarship loans; or in the event any such scholarship is~~
43 ~~terminated under the provisions of subdivision (3) of this section, the~~
44 ~~notes shall bear interest from the date of termination. A minor~~
45 ~~recipient who signs a note shall also obtain the endorsement thereon by~~
46 ~~a parent, if there be a living parent, unless the endorsement is waived~~
47 ~~by the Superintendent of Public Instruction. The minor recipient shall~~
48 ~~be obligated upon the note as fully as if the recipient were of age and~~
49 ~~shall not be permitted to plead such minority as a defense in order to~~
50 ~~avoid the obligations undertaken upon the notes year, beginning~~
51 ~~September 1 after graduation, or immediately after termination of the~~
52 ~~scholarship loan, whichever is earlier.~~

- 1 (3) ~~Each recipient of a scholarship loan under the provisions of this~~
2 ~~program shall be eligible for scholarship loans each year until the~~
3 ~~recipient has qualified for a certificate based upon the entry level~~
4 ~~degree, but the recipient shall not be so eligible for more than the~~
5 ~~minimum number of years normally required for qualifying for the~~
6 ~~certificate. The permanent withdrawal of any recipient from college or~~
7 ~~failure of the recipient to do college work in a manner acceptable to~~
8 ~~the State Superintendent of Public Instruction shall immediately forfeit~~
9 ~~the recipient's right to retain the scholarship and subject the~~
10 ~~scholarship to termination by the State Superintendent of Public~~
11 ~~Instruction in the Superintendent's discretion. A scholarship loan shall~~
12 ~~be terminated upon the recipient's withdrawing from school or a~~
13 ~~finding by the Authority that the recipient fails to meet the standards~~
14 ~~set by the Authority. All terminated scholarships shall be regarded as~~
15 ~~vacant and subject to being awarded to other eligible persons.~~
- 16 (4) ~~Except under emergency conditions applicable to the State~~
17 ~~Superintendent of Public Instruction, recipients of scholarship loans~~
18 ~~shall enter the public school system of North Carolina at the beginning~~
19 ~~of the next school term after qualifying for a certificate based upon the~~
20 ~~entry level degree or, in case of persons already teaching in the public~~
21 ~~schools, at the beginning of the next school term after the use of the~~
22 ~~loan. All teaching service for which the recipient of any scholarship~~
23 ~~loan is obligated shall be rendered by August 31 of the seventh school~~
24 ~~year following graduation.~~
- 25 (5)(4) ~~For each full school year taught in a North Carolina public school, the~~
26 ~~recipient of a scholarship loan shall receive credit upon the amount due~~
27 ~~by reason of the loan equal to the loan amount for a school year as~~
28 ~~provided in the note plus credit for the total interest accrued on that~~
29 ~~amount. Also, the recipient of the loan shall receive credit upon the~~
30 ~~total amount due by reason of all four years of the loan if the recipient~~
31 ~~teaches for three consecutive years. The Authority shall forgive a~~
32 ~~four-year loan if, within seven years after graduation, the recipient~~
33 ~~teaches for four years at a North Carolina public school or at a school~~
34 ~~operated by the United States government in North Carolina. The~~
35 ~~Authority shall also forgive a four-year loan if, within seven years~~
36 ~~after graduation, the recipient teaches for three consecutive years, or~~
37 ~~for three years interrupted only by an approved leave of absence, at a~~
38 ~~North Carolina public school that is in a low-performing school system~~
39 ~~or a school system on warning status at the time the recipient accepts~~
40 ~~employment with the local school administrative unit. In lieu of~~
41 ~~teaching in the public school, a recipient may elect to pay in cash the~~
42 ~~full amount of scholarship loans received plus interest then due~~
43 ~~thereon or any part thereof that has not been canceled by the State~~
44 ~~Board of Education by reason of teaching service rendered. For loans~~
45 ~~of less than four years, the Authority shall forgive one year for each~~
46 ~~year the recipient teaches, within four years of graduation, at a North~~
47 ~~Carolina public school or a school operated by the United States~~
48 ~~government in North Carolina.~~
- 49 (6)(5) ~~If any recipient of a scholarship loan dies during the period of~~
50 ~~attendance at a college or university under a scholarship loan or before~~
51 ~~the scholarship loan is satisfied by payment or teaching service, any~~
52 ~~balance shall be automatically canceled.~~

1 ~~If any recipient of a scholarship loan fails to fulfill the recipient's~~
 2 ~~obligations under subdivision (4) of this section, other than as~~
 3 ~~provided above, the amount of the loan and accrued interest, if any,~~
 4 ~~shall be due and payable from the time of failure to fulfill the~~
 5 ~~recipient's obligations. The Authority may forgive or reduce any loan~~
 6 ~~payment if the Authority considers that extenuating circumstances~~
 7 ~~exist that would make teaching or repayment impossible.~~

8 ~~(7)(6) The State Superintendent of Public Instruction shall award scholarship~~
 9 ~~loans with due consideration to factors and circumstances such as~~
 10 ~~aptitude, purposefulness, scholarship, character, financial need, and~~
 11 ~~geographic areas or subjects of instruction in which the demands for~~
 12 ~~teachers are greatest. Since the primary purpose of this Article is to~~
 13 ~~attract worthy young people to the teaching profession, preference for~~
 14 ~~scholarship loans, except for the scholarship loans from funds~~
 15 ~~earmarked for teacher assistants, shall be given to high school seniors~~
 16 ~~in the awarding of scholarships. In awarding scholarship loans from~~
 17 ~~funds earmarked for teacher assistants, preference shall be given to~~
 18 ~~applicants who have already earned a baccalaureate degree or who~~
 19 ~~have been formally admitted to an approved teacher education~~
 20 ~~program in North Carolina. The Authority shall ensure that all~~
 21 ~~repayments, including the accrued interest, are placed in the Fund.~~

22 ~~(b) The State Education Assistance Authority, in consultation with the State~~
 23 ~~Board of Education, shall adopt rules to implement G.S. 116-209.33, 116-209.34, and~~
 24 ~~116-209.35."~~

25 **SECTION 9.17.(e)** This section becomes effective January 1, 2006, and
 26 applies to scholarship loans awarded on or after that date.

27
 28 Requested by: Representatives Jeffus, Tolson, Yongue
 29 **UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT**
 30 **STUDY OF HIGHER EDUCATION STRATEGY/AMEND REPORTING**
 31 **REQUIREMENT**

32 **SECTION 9.18.** Section 6.2 of S.L. 2004-179 reads as rewritten:
 33 **"SECTION 6.2.** These studies shall be designed to provide information and
 34 recommendations that will assist the General Assembly in setting priorities for funding
 35 to address the strategic higher education needs of the State. The Board of Governors, the
 36 State Board, and their consultant shall periodically report their findings to a higher
 37 education programming subcommittee of the Joint Legislative Education Oversight
 38 Committee. The two boards and their consultant shall report the preliminary results of
 39 the study to the General Assembly and to the Joint Legislative Education Oversight
 40 Committee by ~~April 15, 2005, June 15, 2005,~~ and shall file a final report and
 41 recommendations with the General Assembly and the Joint Legislative Education
 42 Oversight Committee no later than ~~December 31, 2005.~~December 31, 2006."

43
 44 Requested by: Representatives Jeffus, Tolson, Yongue
 45 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**
 46 **SECTION 9.21.(a)** G.S. 116-41.15 reads as rewritten:
 47 **"§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
 48 **administration.**

49 (a) For constituent institutions other than focused growth institutions and special
 50 needs institutions, the amount appropriated to the trust shall be allocated by the Board
 51 as follows:

- 1 (1) On the basis of one three hundred thirty-four thousand dollar
 2 (\$334,000) challenge grant for each six hundred sixty-six thousand
 3 dollars (\$666,000) raised from private sources; or
 4 (2) On the basis of one one hundred sixty-seven thousand dollar
 5 (\$167,000) challenge grant for each three hundred thirty-three
 6 thousand dollars (\$333,000) raised from private ~~sources~~ sources; or
 7 (3) On the basis of one challenge grant of up to six hundred sixty-seven
 8 thousand dollars (\$667,000) for funds raised from private sources in
 9 twice the amount of the challenge grant.

10 If an institution chooses to pursue the use of the allocated challenge grant funds
 11 described in either subdivision ~~(1)~~ ~~or~~ (1), subdivision ~~(2)~~ (2), or subdivision (3) of this
 12 subsection, the challenge grant funds shall be matched by funds from private sources on
 13 a two to one basis: the basis of two dollars of private funds for every one dollar of State
 14 funds.

15 (b) For focused growth institutions and special needs institutions, the amount
 16 appropriated to the trust shall be allocated by the Board as follows:

- 17 (1) On the basis of one five hundred thousand dollar (\$500,000) challenge
 18 grant for each five hundred thousand dollars (\$500,000) raised from
 19 private sources; or
 20 (2) On the basis of one two hundred fifty thousand dollar (\$250,000)
 21 challenge grant for each two hundred fifty thousand dollars (\$250,000)
 22 raised from private ~~sources~~ sources; or
 23 (3) On the basis of one challenge grant of up to one million dollars
 24 (\$1,000,000) for funds raised from private sources in the same amount
 25 as the challenge grant.

26 If an institution chooses to pursue the use of the allocated challenge grant funds
 27 described in either subdivision ~~(1)~~ ~~or~~ (1), subdivision ~~(2)~~ (2), or subdivision (3) of this
 28 subsection, the challenge grant funds shall be matched by funds from private sources on
 29 a one to one basis: the basis of one dollar of private funds for every dollar of State
 30 funds.

31 (c) Matching funds shall come from contributions made after July 1, 1985, and
 32 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent
 33 institution's board of trustees shall establish its own Distinguished Professors
 34 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36
 35 to function as a depository for private contributions and for the State matching funds for
 36 the challenge grants. The State matching funds shall be transferred to the constituent
 37 institution's Endowment Fund upon notification that the institution has received and
 38 deposited the appropriate amount required by this section in its own Distinguished
 39 Professors Endowment Trust Fund. Only the net income from that account shall be
 40 expended in support of the distinguished professorship thereby created."

41 **SECTION 9.21.(b)** G.S. 116-41.16 reads as rewritten:

42 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
 43 **commitments.**

44 (a) For constituent institutions other than focused growth institutions and special
 45 needs institutions, contributions may also be eligible for matching if there is:

- 46 (1) A commitment to make a donation of at least six hundred sixty-six
 47 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 48 initial payment of one hundred eleven thousand dollars (\$111,000) to
 49 receive a grant described in G.S. 116-41.15(a)(1); or
 50 (2) A commitment to make a donation of at least three hundred
 51 thirty-three thousand dollars (\$333,000), as prescribed by
 52 G.S. 143-31.4, and an initial payment of fifty-five thousand five

1 hundred dollars (\$55,500) to receive a grant described in
 2 G.S. 116-41.15(a)(2);(2); or

- 3 (3) A commitment to make a donation in excess of six hundred sixty-six
 4 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 5 initial payment of one-sixth of the committed amount to receive a
 6 grant described in G.S. 116-41.15(a)(3);

7 and if the initial payment is accompanied by a written pledge to provide the balance
 8 within five years after the date of the initial payment. Each payment on the balance shall
 9 be no less than the amount of the initial payment and shall be made on or before the
 10 anniversary date of the initial payment. Pledged contributions may not be matched prior
 11 to the actual collection of the total funds. Once the income from the institution's
 12 Distinguished Professors Endowment Trust Fund can be effectively used pursuant to
 13 G.S. 116-41.17, the institution shall proceed to implement plans for establishing an
 14 endowed chair.

15 (b) For focused growth institutions and special needs institutions, contributions
 16 may also be eligible for matching if there is:

- 17 (1) A commitment to make a donation of at least five hundred thousand
 18 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
 19 payment of eighty-three thousand three hundred dollars (\$83,300) to
 20 receive a grant described in G.S. 116-41.5(b)(1); or
 21 (2) A commitment to make a donation of at least two hundred fifty
 22 thousand dollars (\$250,000), as prescribed by G.S. 143-31.4, and an
 23 initial payment of forty-one thousand six hundred dollars (\$41,600) to
 24 receive a grant described in G.S. 116-41.15(b)(2);(2); or
 25 (3) A commitment to make a donation in excess of five hundred thousand
 26 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
 27 payment of one-sixth of the committed amount to receive a grant
 28 described in G.S. 116-41.15(b)(3);

29 and if the initial payment is accompanied by a written pledge to provide the balance
 30 within five years after the date of the initial payment. Each payment on the balance shall
 31 be no less than the amount of the initial payment. Pledged contributions may not be
 32 matched prior to the actual collection of the total funds. Once the income from the
 33 institution's Distinguished Professors Endowment Trust Fund can be effectively used
 34 pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for
 35 establishing an endowed chair."

36 **SECTION 9.21.(c)** G.S. 116-41.17 reads as rewritten:

37 "**§ 116-41.17. Distinguished Professors Endowment Trust Fund; establishment of**
 38 **chairs.**

39 When the sum of the challenge grant and matching funds in the ~~Scholars'~~
 40 Distinguished Professors Endowment Trust Fund reaches:

- 41 (1) One million dollars (\$1,000,000), if the sum of funds described in
 42 ~~G.S. 116-41.15(1); or~~ G.S. 116-41.15(a)(1) or G.S. 116-41.15(b)(1); or
 43 (2) Five hundred thousand dollars (\$500,000), if the sum of funds
 44 described in ~~G.S. 116-41.15(2);~~ G.S. 116-41.15(a)(2) or
 45 G.S. 116-41.15(b)(2); or
 46 (3) An amount up to two million dollars (\$2,000,000), if the sum of funds
 47 described in G.S. 116-41.15(a)(3) or G.S. 116-41.15(b)(3);

48 the board of trustees may recommend to the Board, for its approval, the establishment of
 49 an endowed chair or chairs. The Board, in considering whether to approve the
 50 recommendation, shall include in its consideration the programs already existing in The
 51 University of North Carolina. If the Board approves the recommendation, the chair or
 52 chairs shall be established. The chair or chairs, the property of the constituent

1 institution, may be named in honor of a donor, benefactor, or honoree of the institution,
2 at the option of the board of trustees."
3

4 Requested by: Representatives Jeffus, Tolson, Yongue

5 **UNC MAY ENCOURAGE THE ESTABLISHMENT OF PRIVATE,**
6 **NONPROFIT CORPORATIONS TO SUPPORT THE UNIVERSITY**
7 **SYSTEM AND ASSIGN UNC EMPLOYEES TO ASSIST WITH THOSE**
8 **CORPORATIONS**

9 **SECTION 9.22.** Article 1 of Chapter 116 of the General Statutes is amended
10 by adding a new Part to read:

11 "Part 2B. Private, Nonprofit Corporations.

12 **"§ 116-30.20. Establishment of private, nonprofit corporations.**

13 The Board of Governors of The University of North Carolina shall encourage the
14 establishment of private, nonprofit corporations to support the constituent institutions of
15 The University of North Carolina and The University System. The President of The
16 University of North Carolina and the chancellors of the constituent institutions may
17 assign employees to assist with the establishment and operation of a nonprofit
18 corporation and may make available to the corporation office space, equipment,
19 supplies, and other related resources; provided, the sole purpose of the corporation is to
20 support The University of North Carolina or one or more of its constituent institutions.

21 The board of directors of each such private, nonprofit corporation shall secure and
22 pay for the services of The University System's internal auditors or employ a certified
23 public accountant to conduct an audit of the financial accounts of the corporation. The
24 board of directors shall transmit to the Board of Governors a copy of the annual
25 financial audit report of the private, nonprofit corporation."
26

27 Requested by: Representatives Jeffus, Tolson, Yongue

28 **ELIMINATE REPORTING REQUIREMENT FOR SCHOOL**
29 **ADMINISTRATOR TRAINING PROGRAMS**

30 **SECTION 9.23.** G.S. 116-74.21 reads as rewritten:

31 **"§ 116-74.21. Establishment of a competitive proposal process for school**
32 **administrator programs.**

33 (a) The Board of Governors shall develop and implement a competitive proposal
34 process and criteria for assessing proposals to establish school administrator training
35 programs within the constituent institutions of The University of North Carolina. To
36 facilitate the development of the programs, program criteria, and the proposal process,
37 the Board of Governors may convene a panel of national school administrator program
38 experts and other professional training program experts to assist it in designing the
39 program, the proposal process, and criteria for assessing the proposals.

40 (b) No more than 12 school administrator programs shall be established under the
41 competitive proposal program. In selecting campus sites, the Board of Governors shall
42 be sensitive to the racial, cultural, and geographic diversity of the State. Special priority
43 shall be given to the following factors: (i) the historical background of the institutions in
44 training educators; (ii) the ability of the sites to serve the geographic regions of the
45 State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii)
46 whether the type of roads and terrain in a region make commuting difficult. A school
47 administrator program may provide for instruction at one or more campus sites.

48 (c) The Board of Governors shall study the issue of supply and demand of school
49 administrators to determine the number of school administrators to be trained in the
50 programs in each year of each biennium. ~~The Board of Governors shall report the~~
51 ~~results of this study to the Joint Legislative Education Oversight Committee no later~~
52 ~~than March 1, 1994, and annually thereafter.~~ the biennium and report the results of this

1 study to the Joint Legislative Education Oversight Committee no later than March 1
2 annually.

3 (d) The Board of Governors shall develop a budget for the programs established
4 under subsection (a) of this section that reflects the resources necessary to establish and
5 operate school administrator programs that meet the vision of the report submitted to the
6 1993 General Assembly by the Educational Leadership Task Force.

7 ~~(e) The Board of Governors shall report annually on the implementation of the~~
8 ~~act no later than December 1 of each year."~~

9
10 Requested by: Representatives Jeffus, Tolson, Yongue

11 **CONTINUE ACADEMIC COMMON MARKET PROGRAM**

12 **SECTION 9.24.** Part 5 of Article 1 of Chapter 116 of the General Statutes is
13 amended by adding a new section to read:

14 **"§ 116-43.10. Academic Common Market program.**

15 (a) The Southern Regional Education Board operates an Academic Common
16 Market program. Under this program, qualified students from participating states may
17 apply to attend programs at public universities in participating states that are not
18 available in their home state's university system. North Carolina's participation for
19 graduate programs provides a cost-effective means of offering educational access for
20 North Carolina residents. North Carolinians are able to attend graduate programs that
21 are not available at The University of North Carolina at reduced rates, and the State
22 avoids the cost associated with the development of new academic programs.

23 (b) The Board of Governors of The University of North Carolina may continue
24 participation in the Southern Regional Education Board's Academic Common Market at
25 the graduate program level. The Board of Governors shall examine the graduate
26 programs offered in The University of North Carolina System and select for
27 participation only those graduate programs that are likely to be unique or are not
28 commonly available in other Southern Regional Education Board states. Out-of-state
29 tuition shall be waived for students who are residents of other Southern Regional
30 Education Board states and who are participating in the Academic Common Market
31 program. If accepted into The University of North Carolina graduate programs that are
32 part of the Academic Common Market, these students shall pay in-State tuition and
33 shall be treated for all purposes of The University of North Carolina as residents of
34 North Carolina.

35 (c) Once a student is enrolled in The University of North Carolina System under
36 the Academic Common Market program, the student shall be entitled to pay in-State
37 tuition as long as the student is enrolled in that graduate program. The Board of
38 Governors shall provide a report on the Academic Common Market program to the
39 Joint Legislative Education Oversight Committee by September 2007 and each
40 biennium thereafter."

41
42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **BRODY SCHOOL OF MEDICINE AT ECU/MEDICARE RECEIPTS/FAMILY**
44 **MEDICINE CENTER**

45 **SECTION 9.26.(a)** G.S. 116-36.6 reads as rewritten:

46 **"§ 116-36.6. Brody School of Medicine at East Carolina University School of**
47 **Medicine; University; Medicare receipts.**

48 The Brody School of Medicine at East Carolina University School of Medicine shall
49 request, on a regular basis consistent with the State's cash management plan, funds
50 earned by the School from Medicare reimbursements for education costs. Upon receipt,
51 these funds shall be allocated as follows:

- 52 (1) The portion of the Medicare reimbursement generated through the
53 effort and expense of the Brody School of Medicine's Medical Faculty

1 Practice Plan shall be transferred to the appropriate Medical Faculty
 2 Practice Plan account within the School of Medicine. The Medical
 3 Faculty Practice Plan shall assume responsibility for any of these funds
 4 that subsequently must be refunded due to final audit settlements.

5 (2) ~~The funds from this source budgeted by the General Assembly as part
 6 of the School of Medicine's General Fund budget code shall be
 7 credited to that code as a receipt.~~

8 (3) ~~The remainder of the funds shall be transferred to a special fund
 9 account on deposit with the State Treasurer. This special fund account
 10 shall be used for any necessary repayment of Medicare funds due to
 11 final audit settlements for funds allocated under subdivision (2) of this
 12 subsection. When the amount of these reimbursement funds has been
 13 finalized by audit for each year, those funds remaining in the special
 14 fund shall be available for specific capital improvement projects for
 15 the East Carolina University School of Medicine. Requests by East
 16 Carolina University for use of these funds shall be made to the Board
 17 of Governors of The University of North Carolina. Approval of
 18 projects by the Board of Governors shall be reported to the Joint
 19 Legislative Commission on Governmental Operations, and the reports
 20 shall include projected costs and sources of funds for operation of the
 21 approved projects.~~

22 (2a) Funds that were received pursuant to this section prior to July 1, 2005,
 23 and that were transferred to a special fund account on deposit with the
 24 State Treasurer are appropriated to the Brody School of Medicine at
 25 East Carolina University and may be expended by the Brody School of
 26 Medicine for the family medicine center and for purposes consistent
 27 with its stated mission."

28 **SECTION 9.26.(b)** Subsections (b) and (c) of Section 87 of Chapter 321 of
 29 the 1993 Session Laws are repealed.

30 **SECTION 9.26.(c)** Notwithstanding any other provisions of law, the Board
 31 of Governors of The University of North Carolina may authorize the design and
 32 construction of a new capital project, a family medicine center, on the Health Sciences
 33 Campus of the Brody School of Medicine at East Carolina University, that would
 34 replace the existing family medicine facility that has reached capacity. The family
 35 medicine center is also used as a clinical teaching site for medical students, and the
 36 existing facility is functionally outdated for this purpose. The cost of the facility is
 37 estimated to be thirty million dollars (\$30,000,000). The Board of Governors of The
 38 University of North Carolina may authorize the financing of the project with funds
 39 available to the Brody School of Medicine at East Carolina University from Medicare
 40 reimbursements for education costs, gifts, grants, receipts, self-liquidating indebtedness,
 41 or other funds, or any combination of these funds, but not including funds appropriated
 42 from the General Fund of the State.

43 **SECTION 9.26.(d)** Effective July 1, 2005, the Brody School of Medicine
 44 Medical Faculty Practice Plan shall no longer be required to reimburse the General
 45 Fund for use of outpatient facilities built with General Fund monies.

46 Requested by: Representatives Jeffus, Tolson, Yongue

47 **ENHANCE NUTRITION IN UNIVERSITY AND COMMUNITY COLLEGE**
 48 **FOOD PROGRAMS**

49 **SECTION 9.28.(a)** For nutritional purposes, the Board of Governors of The
 50 University of North Carolina and the State Board of Community Colleges shall adopt
 51 policies governing any food programs operated by the constituent institutions or local
 52 community colleges that prohibit: (i) the use of cooking oils in those food programs that
 53

1 contain trans-fatty acids, or (ii) the sale of processed foods containing trans-fatty acids
2 that were formed during the commercial processing of the foods.

3 **SECTION 9.28.(b)** The policies adopted in compliance with this section
4 shall be implemented by August 1, 2007.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **SCHOLARSHIP LOAN FOR PROSPECTIVE COACHES**

8 **SECTION 9.31.** Article 23 of Chapter 116 of the General Statutes is
9 amended by adding a new section to read:

10 **"§ 116-209.36. Coaching and Assistant Coaching Scholarship Fund.**

11 (a) There is established the Coaching and Assistant Coaching Scholarship Fund.
12 The purpose of the Fund is to provide scholarship loans to students who are pursuing
13 college degrees to become public schoolteachers and coaches. Coaching and Assistant
14 Coaching Fellows shall be offered a curriculum that advances coaching skills and that
15 instills a strong motivation not only to remain in the coaching profession but to provide
16 leadership in the schools where they coach. The State Education Assistance Authority
17 shall administer the Fund. The Fund shall provide 25 scholarship loans per year.

18 (b) Criteria for awarding the scholarship loans shall be developed by the State
19 Education Assistance Authority in consultation with the Board of Governors of The
20 University of North Carolina and shall include all of the following:

21 (1) An applicant shall be enrolled in an accredited bachelors degree
22 program in an institution of higher education in North Carolina.

23 (2) All students shall enter into a legal agreement and promissory note
24 with the Authority to accept employment as a coach or coaching
25 assistant in an elementary or secondary school in North Carolina in
26 exchange for receiving any funds, which agreement shall include
27 stipulation that the student agrees to accept employment in rural or
28 other need-based counties.

29 (3) An applicant shall be a resident of North Carolina. For purposes of this
30 section, residency shall be determined by the same standard as
31 residency for tuition purposes pursuant to G.S. 116-143.1.

32 (4) Any additional criteria that the State Education Assistance Authority
33 considers necessary to administer the Fund effectively, including all of
34 the following:

35 a. Consideration of the appropriate numbers of minority applicants
36 and applicants from diverse socioeconomic backgrounds to
37 receive scholarships pursuant to this section.

38 b. Consideration of the academic qualifications of the individuals
39 applying to receive funds.

40 c. Consideration of the commitment an individual applying to
41 receive funds demonstrates to the profession of coaching.

42 (c) The State Education Assistance Authority shall: (i) prepare a clear written
43 explanation of the Coaching and Assistant Coaching Scholarship Fund and the
44 information regarding the availability and criteria for awarding the scholarships, and (ii)
45 provide that information to the appropriate counselors in each local school system and
46 shall charge those counselors to inform students about the scholarships and to encourage
47 them to apply for the scholarships.

48 (d) The State Education Assistance Authority shall administer the Fund and shall
49 ensure that the loan amount is limited to four thousand dollars (\$4,000) per recipient per
50 year.

51 (e) The Authority shall ensure that the following loan cancellations and
52 repayment schedules apply to all funds distributed pursuant to this section:

- (1) The individual who graduates with a bachelors degree and who works as a school coach or coaching assistant in a rural or other need-based area of North Carolina shall have that amount of the loan cancelled that is based on the amount of time employed and the number of academic years funds were received. One full year of employment shall cancel one academic year's loan.
- (2) The individual who graduates with a bachelors degree and who works as a school coach or assistant coach in a rural or other need-based area of North Carolina for the equivalent of the total number of academic years funds were received shall have the entire loan cancelled.
- (3) The individual who graduates with a bachelors degree and who does not work as a school coach or assistant coach in a rural or other need-based area of North Carolina for any or all of the equivalent of the number of years funds were received shall repay the loan to the Authority according to a schedule prescribed in the promissory note, plus ten percent (10%) annual interest.
- (4) The individual who does not graduate with a bachelors degree shall repay the loan according to a schedule prescribed by the Authority, not to exceed fifteen percent (15%) annual interest. In establishing a schedule and interest rate, the Authority shall take into consideration the reasons the individual did not graduate with a bachelors degree.

The Authority shall ensure that all repayments, including accrued interest, shall be placed in the Fund.

The Authority may forgive or reduce any loan repayment if the Authority considers that extenuating circumstances exist that would make repayment impossible.

(f) The State Education Assistance Authority, in consultation with the Board of Governors of The University of North Carolina, shall adopt rules to implement this section.

(g) The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by March 1 each year regarding the Fund and scholarships awarded from the Fund."

Requested by: Representatives Jeffus, Tolson, Yongue

LIMIT OUT-OF-STATE ENROLLMENT IN THE NORTH CAROLINA SCHOOL OF THE ARTS

SECTION 9.32. G.S. 116-64 reads as rewritten:

"§ 116-64. Establishment of school.

(a) There is hereby established, and there shall be maintained, a school for the professional training of students having exceptional talent in the performing arts which shall be defined as an educational institution of the State, to serve the students of North Carolina and other states, particularly other states of the South. The school shall be designated the "North Carolina School of the Arts".

(b) Beginning with the fall of 2007, the North Carolina School of the Arts shall limit the proportion of nonresident students as defined in G.S. 116-143.1 in the entering freshman class to forty percent (40%). By the fall of 2008, and continuing each academic year thereafter, the proportion of nonresident students as defined in G.S. 116-143.1 in the entering freshman class shall be limited to thirty-five percent (35%)."

Requested by: Representatives Jeffus, Tolson, Yongue

NURSING SCHOLARS PROGRAM

SECTION 9.33. G.S. 90-171.61 is amended by adding a new subsection to

read:

1 "(b1) If a recipient is awarded a scholarship loan under this program and is
2 enrolled, or accepted for enrollment, in a baccalaureate nursing program, but is unable
3 to pursue the course of study in nursing for a semester due to limited faculty resources
4 at the institution for that semester, then the recipient shall continue to receive the
5 scholarship loan for that semester and shall not be required to forfeit or repay the
6 scholarship loan for that semester provided that the recipient remains otherwise eligible
7 for the program. This waiver shall be valid for only one semester of study and may
8 extend a recipient's eligibility for funding under the program by no more than one
9 semester."

10
11 Requested by: Representatives Jeffus, Tolson, Yongue

12 **PROFESSIONAL DEVELOPMENT PROGRAMS FOR PUBLIC SCHOOL**
13 **EMPLOYEES**

14 **SECTION 9.34.(a)** G.S. 115C-12(26) reads as rewritten:

15 **"§ 115C-12. Powers and duties of the Board generally.**

16 The general supervision and administration of the free public school system shall be
17 vested in the State Board of Education. The State Board of Education shall establish
18 policy for the system of free public schools, subject to laws enacted by the General
19 Assembly. The powers and duties of the State Board of Education are defined as
20 follows:

21 ...
22 (26) Duty to Monitor and Make Recommendations Regarding Professional
23 Development Programs. – ~~The State Board of Education shall identify~~
24 ~~State and local needs for professional development for professional~~
25 ~~public school employees based upon the State's educational priorities~~
26 ~~for improving student achievement. The State Board also shall~~
27 ~~recommend strategies for addressing these needs. The strategies must~~
28 ~~be research based, proven in practice, and designed for data driven~~
29 ~~evaluation. The State Board shall report its findings and~~
30 ~~recommendations to the Joint Legislative Education Oversight~~
31 ~~Committee, the President Pro Tempore of the Senate, the Speaker of~~
32 ~~the House of Representatives, and the Board of Governors of The~~
33 ~~University of North Carolina prior to January 15, 2002, and shall~~
34 ~~review, revise, and resubmit those findings and recommendations~~
35 ~~annually thereafter. The State Board shall evaluate the reports~~
36 ~~submitted by the Board of Governors under G.S. 116-11(12a) to~~
37 ~~determine whether the programs for professional development~~
38 ~~provided by the Center for School Leadership Development address~~
39 ~~the State and local needs identified by the State Board and whether the~~
40 ~~programs are using the strategies recommended by the State Board.~~
41 ~~Prior to January 15th of each year, the State Board shall report the~~
42 ~~results of its analysis to the Board of Governors and to the Joint~~
43 ~~Legislative Education Oversight Committee. Education, in~~
44 ~~collaboration with the Board of Governors of The University of North~~
45 ~~Carolina, shall identify and make recommendations regarding~~
46 ~~meaningful professional development programs for professional public~~
47 ~~school employees. The programs shall be aligned with State education~~
48 ~~goals and directed toward improving student academic achievement.~~
49 ~~The State Board shall annually evaluate and, after consultation with~~
50 ~~the Board of Governors, make recommendations regarding~~
51 ~~professional development programs based upon reports submitted by~~
52 ~~the Board of Governors under G.S. 116-11(12a)."~~

53 **SECTION 9.34.(b)** G.S. 116-11(12a) reads as rewritten:

1 **"§ 116-11. Powers and duties generally.**

2 The powers and duties of the Board of Governors shall include the following:

3 ...
 4 (12a) ~~Notwithstanding any other law, the~~The Board of Governors of The
 5 University of North Carolina shall implement, administer, and revise
 6 programs for meaningful professional development for professional
 7 public school employees ~~in accordance with~~ based upon the
 8 evaluations and recommendations made by the State Board of
 9 Education under G.S. 115C-12(26). The programs shall be aligned
 10 with State education goals and directed toward improving student
 11 academic achievement. ~~The Board of Governors shall submit to the~~
 12 ~~State Board of Education an annual written report that uses data to~~
 13 ~~assess and evaluate the effectiveness of the programs for professional~~
 14 ~~development offered by the Center for School Leadership~~
 15 ~~Development. The report shall clearly document how the programs~~
 16 ~~address the State needs identified by the State Board of Education and~~
 17 ~~whether the programs are utilizing the strategies recommended by the~~
 18 ~~State Board. The Board of Governors also shall submit this report to~~
 19 ~~the Joint Legislative Education Oversight Committee, the President~~
 20 ~~Pro Tempore of the Senate, and the Speaker of the House of~~
 21 ~~Representatives prior to September 15th of each year.~~The Board of
 22 Governors shall submit to the State Board of Education an annual
 23 report evaluating the professional development programs administered
 24 by the Board of Governors."
 25

26 Requested by: Representatives Jeffus, Tolson, Yongue

27 **STUDY IN-STATE TEACHER TUITION BENEFIT**

28 **SECTION 9.35.** The Joint Legislative Education Oversight Committee shall
 29 study the current law regarding the in-State tuition rate available to certain teachers for
 30 courses relevant to teacher certification or professional development as a teacher. In its
 31 study, the Committee shall consider the difficulty some teachers have in establishing
 32 North Carolina as their domicile, the fact that school systems on the borders of the State
 33 often recruit nonresidents who commute from their homes to teach in the North
 34 Carolina public school system and so are unable to establish this State as their domicile
 35 and any other relevant issues. The Committee shall make an interim report regarding its
 36 findings and recommendations to the 2005 General Assembly by May 30, 2007, and
 37 shall make a final report of its findings and recommendations to the 2007 General
 38 Assembly.
 39

40 Requested by: Representatives Jeffus, Tolson, Yongue

41 **PRORATE LEGISLATIVE TUITION GRANT FOR PART-TIME STUDENTS**
 42 **IN EDUCATION AND NURSING**

43 **SECTION 9.36.** G.S. 116-21.2 reads as rewritten:

44 **"§ 116-21.2. Legislative tuition grants to aid students attending private institutions**
 45 **of higher education.**

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

52 (a1) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition
 53 to all other financial assistance made available to institutions, or to students attending

1 these institutions, there is granted to each North Carolina student who is enrolled as a
2 part-time undergraduate in a course of study for nursing or teaching at an approved
3 institution as defined in G.S. 116-22, a pro rata share of the tuition grant provided for by
4 subsection (a) of this section.

5 (b) The tuition grants provided for in this section shall be administered by the
6 State Education Assistance Authority pursuant to rules adopted by the State Education
7 Assistance Authority not inconsistent with this section. The State Education Assistance
8 Authority shall not approve any grant until it receives proper certification from an
9 approved institution that the student applying for the grant is an eligible student. Upon
10 receipt of the certification, the State Education Assistance Authority shall remit at the
11 times as it prescribes the grant to the approved institution on behalf, and to the credit, of
12 the student.

13 (c) ~~In~~ Except as provided in subsection (a1) of this section, in the event a student
14 on whose behalf a grant has been paid is not enrolled and carrying a minimum academic
15 load as of the tenth classroom day following the beginning of the school term for which
16 the grant was paid, the institution shall refund the full amount of the grant to the State
17 Education Assistance Authority. Each approved institution shall be subject to
18 examination by the State Auditor for the purpose of determining whether the institution
19 has properly certified eligibility and enrollment of students and credited grants paid on
20 behalf of the students.

21 (d) In the event there are not sufficient funds to provide each eligible student
22 with a full ~~grant~~ grant or a pro rata grant as provided by subsections (a) and (a1) of this
23 section:

- 24 (1) The Board of Governors of The University of North Carolina, with the
25 approval of the Office of State Budget and Management, may transfer
26 available funds to meet the needs of the programs provided by
27 subsections (a) and (b) of this section; and
28 (2) Each eligible student shall receive a pro rata share of funds then
29 available for the remainder of the academic year within the fiscal
30 period covered by the current appropriation.

31 (e) Any remaining funds shall revert to the General Fund."
32

33 Requested by: Representatives Jeffus, Tolson, Yongue
34 **CENTER FOR CRAFT, CREATIVITY, AND DESIGN**

35 **SECTION 9.37.** Of the funds appropriated by this act to the Board of
36 Governors of The University of North Carolina for the Center for Craft, Creativity, and
37 Design at the University of North Carolina at Asheville, the sum of two hundred
38 thousand dollars (\$200,000) in recurring funds for the 2005-2006 fiscal year shall be
39 held in reserve for the Center for Craft, Creativity, and Design at the University of
40 North Carolina at Asheville. The funds shall be disbursed to the University of North
41 Carolina at Asheville when the Center receives the interest earnings from an endowment
42 for graduate scholarships at the Center.
43

44 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

45
46 Requested by: Representatives Insko, Barnhart
47 **INFORMATION TECHNOLOGY**

48 **SECTION 10.1.(a)** To support its information technology initiatives, the
49 Department of Health and Human Services shall develop the following:

- 50 (1) A detailed business plan.
51 (2) An information technology plan directly tied to business requirements.
52 (3) An IT architecture.

1 The Department of Health and Human Services shall ensure that the planning
2 documents extend three to five years and include detailed shortfall analyses and
3 associated cost assessments. The Department of Health and Human Services shall
4 forward the documents to the Office of Information Technology Services, the Senate
5 Appropriations Committee on Health and Human Services, the House of
6 Representatives Appropriations Subcommittee on Health and Human Services, and the
7 Fiscal Research Division by December 1, 2005. The Office of Information Technology
8 Services shall review the documents and report its findings and recommendations to the
9 Senate Appropriations Committee on Health and Human Services, the House of
10 Representatives Appropriations Subcommittee on Health and Human Services, and the
11 Fiscal Research Division by January 31, 2006.

12 **SECTION 10.1.(b)** The Department of Health and Human Services shall
13 develop a project plan for each of its information technology projects. These plans shall
14 include the following:

- 15 (1) A detailed description of the project.
- 16 (2) A description of how the project improves Department operations and
17 service to customers.
- 18 (3) The projected cost of the project by year and phase.
- 19 (4) Deliverables required to implement each phase of the system.
- 20 (5) The date that each deliverable is to be implemented.
- 21 (6) The cost of implementing each deliverable.
- 22 (7) What capabilities each deliverable adds to the project.

23 **SECTION 10.1.(c)** The Department of Health and Human Services shall
24 provide the plans to the Senate Appropriations Committee on Health and Human
25 Services, the House of Representatives Appropriations Subcommittee on Health and
26 Human Services, and the Fiscal Research Division no later than October 1, 2005, with
27 subsequent updates provided quarterly. The Department of Health and Human Services
28 shall notify the Division of Fiscal Research within 10 days when costs, completion
29 dates, or system capabilities change and provide a report detailing the impact of the
30 change.

31 **SECTION 10.1.(d)** The Department of Health and Human Services shall not
32 spend more than the amounts appropriated by the General Assembly for information
33 technology projects and may not allocate funds appropriated for one information
34 technology project to any other information technology project.

35 **SECTION 10.1.(e)** The Department of Health and Human Services shall use
36 funds appropriated for the 2005-2006 and 2006-2007 fiscal years for the North Carolina
37 Families Accessing Services through Technology (NC FAST) program only for
38 program-specific development, deliverables, and maintenance costs associated with the
39 NC FAST program.

40
41 Requested by: Representatives Insko, Barnhart

42 **OFFICE OF POLICY AND PLANNING**

43 **SECTION 10.2.** Article 3 of Chapter 143B is amended by adding the
44 following new Part to read:

45 "Part 34. Office of Policy and Planning.

46 "**§ 143B-216.70. Office of Policy and Planning.**

47 (a) To promote coordinated policy development and strategic planning for the
48 State's health and human services systems, the Secretary of Health and Human Services
49 shall establish an Office of Policy and Planning from existing resources across the
50 Department. The Director of the Office of Policy and Planning shall report directly to
51 the Secretary and shall have the following responsibilities:

- 52 (1) Coordinate the development of departmental policies, plans, and rules,
53 in consultation with the Divisions of the Department.

- (2) Development of a departmental process for the development and implementation of new policies, plans, and rules.
- (3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.
- (4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.
- (5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.
- (6) Review, disseminate, monitor, and evaluate best practice models.

(b) Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5."

Requested by: Representatives Insko, Barnhart
SENIOR CARES PROGRAM ADMINISTRATION

SECTION 10.4.(a) The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.

SECTION 10.4.(b) This section expires December 31, 2005.

Requested by: Representatives Insko, Barnhart
NONMEDICAID REIMBURSEMENT CHANGES

SECTION 10.5. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

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

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

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
1	\$4,860	\$8,364	\$4,200

1	2	5,940	10,944	5,300
2	3	6,204	13,500	6,400
3	4	7,284	16,092	7,500
4	5	7,821	18,648	7,900
5	6	8,220	21,228	8,300
6	7	8,772	21,708	8,800
7	8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

<u>Income</u> (% of poverty)	<u>State Participation</u>	<u>Client Participation</u>
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

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

Requested by: Representatives Insko, Barnhart

PHYSICIAN SERVICES

SECTION 10.6. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

Requested by: Representatives Insko, Barnhart

LIABILITY INSURANCE

SECTION 10.7.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage

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

11 **SECTION 10.7.(b)** The coverage provided under this section shall not cover
12 any individual for any act or omission that the individual knows or reasonably should
13 know constitutes a violation of the applicable criminal laws of any state or the United
14 States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of
15 any act amounting to willful or wanton negligence.

16 **SECTION 10.7.(c)** The coverage provided pursuant to this section shall not
17 require any additional appropriations and shall not apply to any individual providing
18 contractual service to the Department of Health and Human Services, the Department of
19 Environment and Natural Resources, or the Department of Correction, with the
20 exception that coverage may include physicians in all residency training programs from
21 The University of North Carolina who are in training at institutions operated by the
22 Department of Health and Human Services and licensed physicians who are faculty
23 members of The University of North Carolina who work for the Division of Mental
24 Health, Developmental Disabilities, and Substance Abuse Services.

25
26 Requested by: Representatives Insko, Barnhart

27 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

28 **SECTION 10.8.** Part 1 of Article 3 of Chapter 143B of the General Statutes
29 is amended by adding the following new section to read:

30 "**§ 143B-139.6B. Department of Health and Human Services; authority to deduct**
31 **payroll for child care services.**

32 Notwithstanding G.S. 143-3.3 and pursuant to rules adopted by the State Controller,
33 an employee of the Department of Health and Human Services may, in writing,
34 authorize the Department to periodically deduct from the employee's salary or wages
35 paid for employment by the State, a designated lump sum to be paid to satisfy the cost
36 of services received for child care provided by the Department."

37
38 Requested by: Representatives Insko, Barnhart

39 **COMMUNITY HEALTH CENTERS FUNDS**

40 **SECTION 10.9.(a)** Of the funds appropriated in this act for Community
41 Health Grants, the sum of two million dollars (\$2,000,000) in recurring funds for the
42 2005-2006 fiscal year and the sum of two million dollars (\$2,000,000) in recurring
43 funds for the 2006-2007 fiscal year shall be used for State-designated rural health
44 centers and public health departments and other clinics to:

- 45 (1) Increase access to preventative and primary care services by uninsured
46 or medically indigent patients in existing or new health center
47 locations;
- 48 (2) Establish community health center services in counties where no such
49 services exist;
- 50 (3) Create new services or augment existing services provided to
51 uninsured or medically indigent patients, including primary care and
52 preventative medical services, dental services, pharmacy, and
53 behavioral health; and

1 (4) Increase capacity necessary to serve the uninsured by enhancing or
2 replacing facilities, equipment, or technologies.

3 Grant funds may not be used to enhance or increase compensation or other
4 benefits of personnel, administrators, directors, consultants, or any other parties. Grant
5 funds may not be used to finance or satisfy any existing debt.

6 **SECTION 10.9.(b)** The Office shall work with the North Carolina
7 Community Health Center Association (hereafter "NCCHCA") and the North Carolina
8 Public Health Association (hereafter "NCPHA") to establish an advisory committee to
9 develop an objective and equitable process for awarding grant funds. The Office shall
10 also develop auditing and accountability procedures. Not more than one percent (1%) of
11 the funds appropriated in this section may be used to reimburse the Office for
12 administering the grant program in collaboration with the NCCHCA and the NCPHA.

13 **SECTION 10.9.(c)** Recipients of grant funds shall provide to the Office
14 annually a written report detailing the number of additional uninsured and medically
15 indigent patients that are cared for, the types of services that were provided, and any
16 other information requested by the Office as necessary for evaluating the success of the
17 grant program.

18 **SECTION 10.9.(d)** The Office shall work with the NCCHCA and NCPHA
19 to study and present recommendations for continuing funds to support the expansion of
20 community health centers, State-designated rural health centers, and public health
21 departments to serve more of the State's uninsured and indigent population. The Office
22 shall submit the report to the 2006 Regular Session of the 2005 General Assembly upon
23 its convening.

24
25 Requested by: Representatives Insko, Barnhart

26 **PROVIDER REIMBURSEMENT RATES**

27 **SECTION 10.10.** Except for rate increases funded in this act, the
28 Department of Health and Human Services shall maintain reimbursement rates paid to
29 service providers at fiscal year 2004-2005 levels during the 2005-2006 fiscal year.
30 Exceptions made by the Department shall be made on a case-by-case basis and must be
31 approved by the Office of the Secretary. Changes in rate structures that result in lower
32 payments to the providers are exempted from this requirement. As used in this section,
33 "service providers" includes subcontractors, such as counties, area agencies on aging,
34 departments of social services, departments of public health, child developmental
35 services agencies, and local management entities.

36
37 Requested by: Representatives Insko, Barnhart

38 **MEDICAID**

39 **SECTION 10.11.(a)** Funds appropriated in this act for services provided in
40 accordance with Title XIX of the Social Security Act (Medicaid) are for both the
41 categorically needy and the medically needy. Funds appropriated for these services shall
42 be expended in accordance with the following schedule of services and payment bases.
43 All services and payments are subject to the language at the end of this subsection.

44 Services and payment bases:

- 45 (1) Hospital inpatient. – Payment for hospital inpatient services will be
46 prescribed in the State Plan as established by the Department of Health
47 and Human Services.
- 48 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
49 prospective reimbursement plan as established by the Department of
50 Health and Human Services.
- 51 (3) Nursing facilities. – Payment for nursing facility services will be
52 prescribed in the State Plan as established by the Department of Health
53 and Human Services. Nursing facilities providing services to Medicaid

1 recipients who also qualify for Medicare must be enrolled in the
2 Medicare program as a condition of participation in the Medicaid
3 program. State facilities are not subject to the requirement to enroll in
4 the Medicare program. Residents of nursing facilities who are eligible
5 for Medicare coverage of nursing facility services must be placed in a
6 Medicare-certified bed. Medicaid shall cover facility services only
7 after the appropriate services have been billed to Medicare. The
8 Division of Medical Assistance shall allow nursing facility providers
9 sufficient time from the effective date of this act to certify additional
10 Medicare beds if necessary. In determining the date that the
11 requirements of this subdivision become effective, the Division of
12 Medical Assistance shall consider the regulations governing
13 certification of Medicare beds and the length of time required for this
14 process to be completed.

15 (4) Intermediate care facilities for the mentally retarded. – As prescribed
16 in the State Plan as established by the Department of Health and
17 Human Services.

18 (5) Drugs. – Drug costs as allowed by federal regulations plus a
19 professional services fee per month, excluding refills for the same drug
20 or generic equivalent during the same month. Reimbursement shall be
21 available for up to five brand-name prescription drugs per recipient per
22 month, including refills, and for an unlimited number of generic
23 prescription drugs per recipient, per month. Payments for drugs are
24 subject to the provisions of subsection (h) of this section and to the
25 provisions at the end of this subsection or in accordance with the State
26 Plan adopted by the Department of Health and Human Services,
27 consistent with federal reimbursement regulations. Payment of the
28 professional services fee shall be made in accordance with the State
29 Plan adopted by the Department of Health and Human Services,
30 consistent with federal reimbursement regulations. The professional
31 services fee shall be five dollars and sixty cents (\$5.60) per
32 prescription for generic drugs and four dollars (\$4.00) per prescription
33 for brand-name drugs. Adjustments to the professional services fee
34 shall be established by the General Assembly. In addition to the
35 professional services fee, the Department may pay an enhanced fee for
36 pharmacy services. As used in this subsection, "brand name" means
37 the proprietary name the manufacturer places upon a drug product or
38 on its container, label, or wrapping at the time of packaging; and
39 "established name" has the same meaning as in section 502(e)(3) of the
40 Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. §
41 352(e)(3).

42 (6) Physicians, chiropractors, podiatrists, optometrists, dentists, certified
43 nurse midwife services, nurse practitioners. – Fee schedules as
44 developed by the Department of Health and Human Services.
45 Payments for dental services are subject to the provisions of subsection
46 (g) of this section.

47 (7) Community Alternative Program, EPSDT screens. – Payment to be
48 made in accordance with the rate schedule developed by the
49 Department of Health and Human Services.

50 (8) Home health and related services, private duty nursing, clinic services,
51 prepaid health plans, durable medical equipment. – Payment to be
52 made according to reimbursement plans developed by the Department
53 of Health and Human Services.

- 1 (9) Medicare Buy-In. – Social Security Administration premium.
- 2 (10) Ambulance services. – Uniform fee schedules as developed by the
- 3 Department of Health and Human Services. Public ambulance
- 4 providers will be reimbursed at cost.
- 5 (11) Hearing aids. – Wholesale cost plus a dispensing fee to the provider.
- 6 (12) Rural health clinic services. – Provider-based, reasonable cost;
- 7 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 8 (13) Family planning. – Negotiated rate for local health departments. For
- 9 other providers, see specific services, for instance, hospitals,
- 10 physicians.
- 11 (14) Independent laboratory and X-ray services. – Uniform fee schedules as
- 12 developed by the Department of Health and Human Services.
- 13 (15) Optical supplies. – Payment for materials is made to a contractor in
- 14 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
- 15 providers are negotiated fees established by the State agency based on
- 16 industry charges.
- 17 (16) Ambulatory surgical centers. – Payment as prescribed in the
- 18 reimbursement plan established by the Department of Health and
- 19 Human Services.
- 20 (17) Medicare crossover claims. – By not later than October 1, 2005, the
- 21 Department shall apply Medicaid medical policy to Medicare claims
- 22 for dually eligible recipients. The Department shall pay an amount up
- 23 to the actual coinsurance or deductible or both, in accordance with the
- 24 State Plan, as approved by the Department of Health and Human
- 25 Services.
- 26 (18) Physical therapy and speech therapy. – Services limited to
- 27 EPSDT-eligible children. Payments are to be made only to qualified
- 28 providers at rates negotiated by the Department of Health and Human
- 29 Services. Physical therapy (including occupational therapy) and speech
- 30 therapy services are subject to prior approval and utilization review.
- 31 (19) Personal care services. – Payment in accordance with the State Plan
- 32 approved by the Department of Health and Human Services.
- 33 (20) Case management services. – Reimbursement in accordance with the
- 34 availability of funds to be transferred within the Department of Health
- 35 and Human Services.
- 36 (21) Hospice. – Services may be provided in accordance with the State Plan
- 37 developed by the Department of Health and Human Services.
- 38 (22) Other mental health services. – Unless otherwise covered by this
- 39 section, coverage is limited to:
- 40 a. Services as defined by the Division of Mental Health,
- 41 Developmental Disabilities, and Substance Abuse Services and
- 42 approved by the Centers for Medicare and Medicaid Services
- 43 (CMS) when provided in agencies meeting the requirements of
- 44 the rules established by the Commission for Mental Health,
- 45 Developmental Disabilities, and Substance Abuse Services, and
- 46 reimbursement is made in accordance with a State Plan
- 47 developed by the Department of Health and Human Services
- 48 not to exceed the upper limits established in federal regulations,
- 49 and
- 50 b. For children eligible for EPSDT services provided by:
- 51 1. Licensed or certified psychologists, licensed clinical
- 52 social workers, certified clinical nurse specialists in
- 53 psychiatric mental health advanced practice, nurse

- 1 practitioners certified as clinical nurse specialists in
2 psychiatric mental health advanced practice, licensed
3 psychological associates, licensed professional
4 counselors, licensed marriage and family therapists,
5 certified clinical addictions specialists, and certified
6 clinical supervisors, when Medicaid-eligible children are
7 referred by the Community Care of North Carolina
8 primary care physician, a Medicaid-enrolled psychiatrist,
9 or the area mental health program or local management
10 entity, and
- 11 2. Institutional providers of residential services as defined
12 by the Division of Mental Health, Developmental
13 Disabilities, and Substance Abuse Services and approved
14 by the Centers for Medicare and Medicaid Services
15 (CMS) for children and Psychiatric Residential
16 Treatment Facility services that meet federal and State
17 requirements as defined by the Department.
- 18 c. For Medicaid-eligible adults, services provided by licensed or
19 certified psychologists, licensed clinical social workers,
20 certified clinical nurse specialists in psychiatric mental health
21 advanced practice, and nurse practitioners certified as clinical
22 nurse specialists in psychiatric mental health advanced practice,
23 licensed psychological associates, licensed professional
24 counselors, licensed marriage and family therapists, certified
25 clinical addictions specialists, and certified clinical supervisors,
26 Medicaid-eligible adults may be self-referred.
- 27 d. Payments made for services rendered in accordance with this
28 subdivision shall be to qualified providers in accordance with
29 approved policies and the State Plan. Nothing in
30 sub-subdivision b. or c. of this subdivision shall be interpreted
31 to modify the scope of practice of any service provider,
32 practitioner, or licensee, nor to modify or attenuate any
33 collaboration or supervision requirement related to the
34 professional activities of any service provider, practitioner, or
35 licensee. Nothing in sub-subdivision b. or c. of this subdivision
36 shall be interpreted to require any private health insurer or
37 health plan to make direct third-party reimbursements or
38 payments to any service provider, practitioner, or licensee.
- 39 e. The Department of Health and Human Services shall not enroll
40 licensed psychological associates, licensed professional
41 counselors, licensed marriage and family therapists, certified
42 clinical addiction specialists, and certified clinical supervisors
43 until all of the following conditions have been met:
- 44 1. The fiscal impact of payments to these qualified
45 providers has been projected;
- 46 2. Funding for any projected requirements in excess of
47 budgeted Division of Medical Assistance funding has
48 been identified from within State funds appropriated to
49 the Department of Health and Human Services, Division
50 of Mental Health, Developmental Disabilities, and
51 Substance Abuse Services to support area mental health
52 programs or county programs, or identified from other
53 sources; and

3. Approval has been obtained from the Office of State Budget and Management to transfer these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance. Upon approval and implementation, the Department of Health and Human Services shall, on a quarterly basis, provide a status report to the Office of State Budget and Management and the Fiscal Research Division.

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

(23) Medically necessary prosthetics or orthotics. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services, except that in order to be eligible for reimbursement, providers must be Board certified not later than July 1, 2005. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.

(24) Health insurance premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this subdivision are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.

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

Services and payment bases may be changed with the approval of the Director of the Budget.

Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

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

8 **SECTION 10.11.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
 9 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 10 nonfederal costs of all applicable services listed in this section. In addition, the State
 11 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 12 federal Medicare Part D clawback payments under the Medicare Modernization Act of
 13 2004.

14 **SECTION 10.11.(c)** Co-Payment for Medicaid Services. – The Department
 15 of Health and Human Services may establish co-payments up to the maximum
 16 permitted by federal law and regulation and required by this subsection in order to
 17 achieve reductions in the budget in fiscal years 2005-2006 and 2006-2007.

18 **SECTION 10.11.(d)** Medicaid and Work First Family Assistance, Income
 19 Eligibility Standards. – The maximum net family annual income eligibility standards for
 20 Medicaid and Work First Family Assistance and the Standard of Need for Work First
 21 Family Assistance shall be as follows:

	<u>Categorically Needy</u>		<u>Medically Needy</u>	
	<u>WFFA*</u>			
<u>Family</u>	<u>Standard</u>	<u>Families and</u>	<u>Level</u>	<u>AA, AB, AD*</u>
<u>Size</u>	<u>of Need</u>	<u>Children</u>	<u>Income</u>	
1	\$4,344	Level	\$2,172	\$2,900
2	5,664		2,832	3,800
3	6,528		3,264	4,400
4	7,128		3,564	4,800
5	7,776		3,888	5,200
6	8,376		4,188	5,600
7	8,952		4,476	6,000
8	9,256		4,680	6,300

22 *Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB);
 23 and Aid to the Disabled (AD).
 24

25 The payment level for Work First Family Assistance shall be fifty percent (50%) of the
 26 standard of need.
 27

28 These standards may be changed with the approval of the Director of the
 29 Budget with the advice of the Advisory Budget Commission.
 30

31 **SECTION 10.11.(e)** The Department of Health and Human Services,
 32 Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind,
 33 and disabled people who have incomes equal to or less than one hundred percent
 34 (100%) of the federal poverty guidelines, as revised each April 1.
 35

36 **SECTION 10.11.(f)** ICF and ICF/MR Work Incentive Allowances. – The
 37 Department of Health and Human Services may provide an incentive allowance to
 38 Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in
 39 work activities as part of their developmental plan and for whom retention of additional
 40 income contributes to their achievement of independence. The State funds required to
 41 match the federal funds that are required by these allowances shall be provided from
 42 savings within the Medicaid budget or from other unbudgeted funds available to the
 43 Department. The incentive allowances may be as follows:
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53

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

SECTION 10.11.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.11.(h) The Department of Health and Human Services shall not impose prior authorization requirements under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

SECTION 10.11.(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 10.11.(j) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 10.11.(k) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 10.11.(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

SECTION 10.11.(m) The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

SECTION 10.11.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (2) Infants under the age of one with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (3) Children aged one through five with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty

1 guidelines as revised each April 1 shall be covered for Medicaid
2 benefits.

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

6 (5) The Department of Health and Human Services shall provide Medicaid
7 coverage for adoptive children with special or rehabilitative needs
8 regardless of the adoptive family's income.

9 Services to pregnant women eligible under this subsection continue
10 throughout the pregnancy but include only those related to pregnancy and to those other
11 conditions determined by the Department as conditions that may complicate pregnancy.
12 In order to reduce county administrative costs and to expedite the provision of medical
13 services to pregnant women, to infants, and to children described in subdivisions (3) and
14 (4) of this subsection, no resources test shall be applied.

15 **SECTION 10.11.(o)** Medicaid enrollment of categorically needy families
16 with children shall be continuous for one year without regard to changes in income or
17 assets.

18 **SECTION 10.11.(p)** The Division of Medical Assistance, Department of
19 Health and Human Services, may provide incentives to counties that successfully
20 recover fraudulently spent Medicaid funds by sharing State savings with counties
21 responsible for the recovery of the fraudulently spent funds.

22 **SECTION 10.11.(q)** If first approved by the Office of State Budget and
23 Management, the Division of Medical Assistance, Department of Health and Human
24 Services, may use funds that are identified to support the cost of development and
25 acquisition of equipment and software through contractual means to improve and
26 enhance information systems that provide management information and claims
27 processing. The Department of Health and Human Services shall identify adequate
28 funds to support the implementation and first year's operational costs that exceed the
29 currently allocated funds for the new contract for the fiscal agent for the Medicaid
30 Management Information System.

31 **SECTION 10.11.(r)** The Department of Health and Human Services may
32 adopt temporary or emergency rules according to the procedures established in
33 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to
34 maximize receipt of federal funds within existing State appropriations, to reduce
35 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these
36 temporary or emergency rules with the Rules Review Commission and the Office of
37 Administrative Hearings, the Department shall consult with the Office of State Budget
38 and Management on the possible fiscal impact of the temporary or emergency rule and
39 its effect on State appropriations and local governments.

40 **SECTION 10.11.(s)** The Department shall report to the Fiscal Research
41 Division of the Legislative Services Office and to the House of Representatives
42 Appropriations Subcommittee on Health and Human Services and the Senate
43 Appropriations Committee on Health and Human Services or the Joint Legislative
44 Health Care Oversight Committee on any change it anticipates making in the Medicaid
45 program that impacts the type or level of service, reimbursement methods, or waivers,
46 any of which require a change in the State Plan or other approval by the Centers for
47 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time
48 they are submitted to CMS for approval.

49 **SECTION 10.11.(t)** The Department of Health and Human Services shall
50 provide Medicaid coverage for family planning services to men and women of
51 childbearing age with family income equal to or less than one hundred eighty-five
52 percent (185%) of the federal poverty level under the family planning demonstration
53 waiver approved by the federal government. Implementation shall be made by October

1, 2005. The Department may use up to six hundred seventy-five thousand dollars (\$675,000) of funds in the Women's Health Services Fund to provide State matching funds for the family-planning demonstration waiver. The remainder of the funds in the Women's Health Services Fund shall be used for community-based organizations that are currently receiving these funds in accordance with the purposes of the Fund.

SECTION 10.11.(u) The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

SECTION 10.11.(v) When implementing the Supplemental Security Income (SSI) method for considering equity value of income-producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the Supplemental Security Income (SSI) method.

SECTION 10.11.(w) Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars (\$3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars (\$3,000,000).

SECTION 10.11.(x) The Department shall develop, amend, and adopt medical coverage policy in accordance with the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
 - a. Publish the proposed new or amended medical coverage policy on the Department's Web site;
 - b. Notify all Medicaid providers of the proposed, new, or amended policy; and

- 1 c. Upon request, provide persons copies of the proposed medical
- 2 coverage policy.
- 3 (3) During the 45-day period immediately following publication of the
- 4 proposed new or amended medical coverage policy, accept oral and
- 5 written comments on the proposed new or amended policy.
- 6 (4) If, following the comment period, the proposed new or amended
- 7 medical coverage policy is modified, then the Department shall, at
- 8 least 15 days prior to its adoption:
- 9 a. Notify all Medicaid providers of the proposed policy;
- 10 b. Upon request, provide persons notice of amendments to the
- 11 proposed policy; and
- 12 c. Accept additional oral or written comments during this 15-day
- 13 period.

14 **SECTION 10.11.(y)** For the purposes of investigating and reducing client
 15 fraud and abuse, the Department of Health and Human Services, Division of Medical
 16 Assistance, shall, unless prohibited by federal law, include in the Medicaid enrollment
 17 process the requirement that the applicant for Medicaid consent to or authorize in
 18 writing the release of the applicant's medical records for the three years immediately
 19 preceding the application for Medicaid benefits. The Department shall obtain and use
 20 information from the applicant's medical records in a manner and form that complies
 21 with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), P.L.
 22 104-191, as amended, and that protects the privacy of the information as required by
 23 other applicable federal or State law. In addition to fraud and abuse detection, the
 24 Department may require the applicant's consent for other purposes permitted by HIPAA
 25 and required or authorized by other applicable federal or State law.

26
 27 Requested by: Representatives Insko, Barnhart

28 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

29 **SECTION 10.12.(a)** Disproportionate share receipts reserved at the end of
 30 the 2005-2006 and 2006-2007 fiscal years shall be deposited with the Department of
 31 State Treasurer as nontax revenue for each of those fiscal years.

32 **SECTION 10.12.(b)** For each year of the 2005-2007 fiscal biennium, as it
 33 receives funds associated with Disproportionate Share Payments from State hospitals,
 34 the Department of Health and Human Services, Division of Medical Assistance, shall
 35 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate
 36 Share Payments to the Department of State Treasurer for deposit as nontax revenue.
 37 Any Disproportionate Share Payments collected in excess of one hundred million
 38 dollars (\$100,000,000) shall be reserved by the State Treasurer for future
 39 appropriations.

40
 41 Requested by: Representatives Insko, Barnhart

42 **COUNTY MEDICAID COST SHARE**

43 **SECTION 10.13.(a)** Effective July 1, 2000, the county share of the cost of
 44 Medicaid services currently and previously provided by area mental health authorities
 45 shall be increased incrementally each fiscal year until the county share reaches fifteen
 46 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

47 **SECTION 10.13.(b)** Effective July 1, 2000, the county share of the cost of
 48 Medicaid Personal Care Services paid to adult care homes shall be decreased
 49 incrementally each fiscal year until the county share reaches fifteen percent (15%) of
 50 the nonfederal share by State fiscal year 2009-2010.

51
 52 Requested by: Representatives Insko, Barnhart

53 **MEDICAID COST CONTAINMENT ACTIVITIES**

1 **SECTION 10.14.** The Department of Health and Human Services may use
2 not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not
3 more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid
4 funds budgeted for program services to support the cost of administrative activities
5 when cost-effectiveness and savings are demonstrated. The funds shall be used to
6 support activities that will contain the cost of the Medicaid Program, including
7 contracting for services or hiring additional staff. Medicaid cost-containment activities
8 may include prospective reimbursement methods, incentive-based reimbursement
9 methods, service limits, prior authorization of services, periodic medical necessity
10 reviews, revised medical necessity criteria, service provision in the least costly settings,
11 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid
12 enrollees, fraud detection software or other fraud detection activities, technology that
13 improves clinical decision making, credit balance recovery and data mining services,
14 and other cost-containment activities. Funds may be expended under this section only
15 after the Office of State Budget and Management has approved a proposal for the
16 expenditure submitted by the Department. Proposals for expenditure of funds under this
17 section shall include the cost of implementing the cost-containment activity and
18 documentation of the amount of savings expected to be realized from the
19 cost-containment activity. The Department shall provide a copy of proposals for
20 expenditures under this section to the Fiscal Research Division.
21

22 Requested by: Representatives Insko, Barnhart

23 **MEDICAID RESERVE FUND TRANSFER**

24 **SECTION 10.15.** Of the funds transferred to the Department of Health and
25 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
26 million dollars (\$50,000,000) for the 2005-2006 fiscal year and the sum of fifty million
27 dollars (\$50,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by
28 G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in
29 G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds
30 shall replace the reduction in general revenue funding effected in this act.
31

32 Requested by: Representatives Insko, Barnhart

33 **EXPAND COMMUNITY CARE OF NORTH CAROLINA MANAGEMENT TO**
34 **ADDITIONAL MEDICAID RECIPIENTS**

35 **SECTION 10.17.(a)** The Department of Health and Human Services shall
36 expand the scope of Community Care of NC, Inc., care management model to recipients
37 of Medicaid and dually eligible individuals with a chronic condition and long-term care
38 needs. In expanding the scope, the Department shall focus on the Aged, Blind, and
39 Disabled, and CAP-DA populations for improvement in management,
40 cost-effectiveness, and local coordination of services through Community Care of NC,
41 Inc., and in collaboration with local providers of care. The Department shall target
42 personal care services, private duty nursing, home health, durable medical equipment,
43 ancillary professional services, specialty care, residential services, including skilled
44 nursing facilities, home infusion therapy, pharmacy, and other services determined
45 target-worthy by the Department. The Department shall pilot communitywide
46 initiatives and shall expand statewide successful models.

47 **SECTION 10.17.(b)** The Department of Health and Human Services may
48 work with the federal government to attain the necessary regulatory and policy relief to
49 better align policy and economic incentives to improve care in the most cost-effective
50 manner and attain savings through controlled utilization of services.

51 **SECTION 10.17.(c)** The Department of Health and Human Services may
52 pay network and primary care providers an enhanced PMPM care management fee and
53 shall also provide additional block grant funds for start-up during the pilot phase.

1 **SECTION 10.17.(d)** Community Care of NC, Inc., and the Department of
2 Health and Human Services shall review the prescribing of diagnostic testing by
3 physicians to determine if overutilization is occurring. The Department shall include
4 the results of the review in the report required under subsection (e) of this section. If the
5 Department finds that overutilization is occurring, it shall implement a plan to reduce or
6 eliminate the overutilization.

7 **SECTION 10.17.(e)** The Department of Health and Human Services shall
8 report on the implementation of this section, including resulting savings and quality
9 improvement benchmarks, to the Senate Appropriations Committee on Health and
10 Human Services, the House of Representatives Appropriations Subcommittee on Health
11 and Human Services, and the Fiscal Research Division not later than March 1, 2007.
12

13 Requested by: Representatives Insko, Barnhart

14 **TICKET TO WORK/MEDICAID ELIGIBILITY STUDY**

15 **SECTION 10.18.** The Department of Health and Human Services shall
16 study and develop a plan for the implementation of the Ticket to Work Program. The
17 Department shall report to the House of Representatives Appropriations Subcommittee
18 on Health and Human Services, the Senate Appropriations Committee on Health and
19 Human Services, and the Fiscal Research Division not later than March 1, 2006, on the
20 results of its study. The report shall include what system changes need to be made to
21 implement the Ticket to Work Program, how soon the changes can be made, and an
22 analysis of the five-year fiscal impact of the Program.
23

24 Requested by: Representatives Insko, Barnhart

25 **MEDICAID PERSONAL CARE SERVICES LIMITATIONS**

26 **SECTION 10.19.(a)** The Department of Health and Human Services,
27 Division of Medical Assistance, shall reduce the cost of providing personal care
28 services under the Medicaid program by six million dollars (\$6,000,000) for the
29 2005-2006 fiscal year and by eight million dollars (\$8,000,000) for the 2006-2007 fiscal
30 year. The Department shall accomplish the reduction by implementing a utilization
31 management system for personal care services. The Division of Medical Assistance
32 shall work with Community Care of North Carolina (CCNC) to determine how CCNC
33 can help with the review of the need for and utilization of personal care services.

34 **SECTION 10.19.(b)** The Division of Medical Assistance shall study and
35 determine additional utilization/prior authorization systems for personal care services
36 and other home- and community-based services that can be provided to individuals who
37 meet medical criteria and that can be implemented when the new MMIS goes into
38 effect. The Department of Health and Human Services, Division of Medical Assistance,
39 shall report the plan for implementation of this section, including costs, not later than
40 May 1, 2006, to the Senate Appropriations Committee on Health and Human Services,
41 the House of Representatives Appropriations Subcommittee on Health and Human
42 Services, and the Fiscal Research Division.
43

44 Requested by: Representative Insko

45 **DDA GROUP HOME FUNDING**

46 **SECTION 10.19A.(a)** The Department of Health and Human Services may
47 develop a plan to use State funds appropriated to support group homes for persons with
48 developmental disabilities to expand the funding available under the CAP-MR/DD
49 waiver and to use the increased waiver funds, in part, to pay for group home services.
50 In developing this plan, the Department shall ensure that the total funding available to
51 the group homes is not reduced.

52 **SECTION 10.19A.(b)** The Department of Health and Human Services may
53 submit a progress report on implementation of this section not later than February 1,

2006, and a final report not later than May 1, 2006, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

Requested by: Representative Nye

IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT PROGRAM

SECTION 10.19B. The Department of Health and Human Services, Division of Medical Assistance, shall implement an Electronic Quality Prescription Management program for prescription drugs through the use of personal data assistance (PDA) technology.

Requested by: Representatives Insko, Barnhart

COMMUNITY ALTERNATIVE PROGRAMS REIMBURSEMENT SYSTEM

SECTION 10.20.(a) The Department of Health and Human Services, Division of Medical Assistance, shall study developing a new system for reimbursing the Community Alternatives Programs. The new system shall:

- (1) Use a case-mix reimbursement system, similar to the one used by nursing facilities and home health agencies, to determine the level of care provided and the amount paid for the care provided;
- (2) Incorporate into the case-mix system, the home environment and social support systems; and
- (3) Use the Resource Utilization Groups-III (RUG-III) to determine the level of need for Community Alternatives Programs services.

SECTION 10.20.(b) Not later than May 1, 2006, the Department of Health and Human Services, Division of Medical Assistance, shall report on the development of the new system, including an implementation schedule. Full implementation of the new system shall be not later than January 1, 2007. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Insko, Barnhart

DMA ACCESS TO HEALTH INSURANCE INFORMATION TO ENSURE RECOUPMENT OF MEDICAID FUNDS SPENT ON MEDICAL CARE COVERED BY INSURANCE

SECTION 10.21.(a) Part 1 of Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

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

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

- (1) 'Department' means the Department of Health and Human Services.
- (2) 'Division' means the Division of Medical Assistance of the Department of Health and Human Services.
- (3) 'Health benefit plan' and 'insurer' have the meaning applicable under G.S. 58-3-167.
- (4) 'Medical assistance' means medical assistance benefits provided under the State Medical Assistance Plan.

(b) Every insurer issuing a health benefit plan shall provide to the Department of Health and Human Services, upon its request, information, including automated data matches conducted under the direction of the Department of Health and Human

1 Services, Division of Medical Assistance, as necessary for the purpose of identifying
2 individuals covered under the insurer's health benefit plans who are also recipients of
3 medical assistance. To facilitate the Division in obtaining this and other related
4 information, every insurer shall:

5 (1) Cooperate with the Division to determine whether a named individual
6 who is a recipient of medical assistance may be covered under the
7 insurer's health benefit plan and eligible to receive benefits under the
8 health benefit plan for services provided under the State Medical
9 Assistance Plan;

10 (2) Accept the Division's authorization for the provision of medical
11 services on behalf of the recipient of medical assistance as the insurer's
12 authorization for the provision of services covered under the insurer's
13 health benefit plan; and

14 (3) Respond to the request for information within 30 working days after
15 receipt of written proof of loss or claim for payment for health care
16 services provided to a recipient of medical assistance who is covered
17 by the insurer's health benefit plan.

18 (c) An insurer that complies with this section shall not be liable on that account
19 in any civil or criminal action or proceedings brought by an individual covered under
20 the insurer's health benefit plan, or the individual's beneficiaries."

21 **SECTION 10.21.(b)** G.S. 108A-70 reads as rewritten:

22 **"§ 108A-70. Recoupment of amounts spent on medical care.**

23 (a) The Department may garnish the wages, salary, or other employment income
24 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
25 person who:

26 (1) Is required by court or administrative order to provide health benefit
27 plan coverage for the cost of health care services to a child eligible for
28 medical assistance under Medicaid; and

29 (2) Has received payment from a third party for the costs of such services;
30 but

31 (3) Has not used such payments to reimburse, as appropriate, either the
32 other parent or guardian of the child or the provider of the services;

33 to the extent necessary to reimburse the Department for expenditures for such costs
34 under this Part; provided, however, claims for current and past due child support shall
35 take priority over any such claims for the costs of such services.

36 (b) To the extent that payment for covered services has been made under
37 G.S. 108A-55 for health care items or services furnished to an individual, in any case
38 where a third party has a legal liability to make payments, the Department of Health and
39 Human Services is considered to have acquired the rights of the individual to payment
40 by any other party for those health care items or services.

41 (c) The Department of Health and Human Services, Division of Medical
42 Assistance, may request, receive, and use information obtained pursuant to
43 G.S. 58-50-46 in order to enforce this section."

44
45 Requested by: Representatives Nye, Barnhart

46 **VERIFICATION OF STATE RESIDENCY FOR MEDICAL ASSISTANCE**

47 **SECTION 10.21A.(a)** G.S. 108A-24(6) reads as rewritten:

48 "(6) "Resident," unless otherwise defined by federal regulation, is a person
49 who is living in North Carolina at the time of application with the
50 intent to remain permanently or for an indefinite period; or who is a
51 person who enters North Carolina seeking employment or with a job
52 commitment. For purposes of Part 6 of this Article, a person is not a

1 resident of this State if the person is determined ineligible for medical
2 assistance benefits under G.S. 108A-55.3."

3 **SECTION 10.21A.(b)** Part 6 of Article 2 of Chapter 108A of the General
4 Statutes is amended by adding the following new section to read:

5 **"§ 108A-55.3. Verification of State residency required for medical assistance.**

6 (a) At the time of application for medical assistance benefits, the applicant shall
7 provide satisfactory proof that the applicant is a resident of North Carolina and that the
8 applicant is not maintaining a temporary residence or abode incident to receiving
9 medical assistance under this Part.

10 (b) An applicant may meet the requirements of subsection (a) of this section by
11 providing at least two of the following documents:

12 (1) A valid North Carolina drivers license.

13 (2) A current North Carolina rent or mortgage payment receipt or utility
14 bill in the applicant's name with the applicant's current address.

15 (3) A valid North Carolina motor vehicle registration in the applicant's
16 name and showing the applicant's current address.

17 (4) A document showing that the applicant is employed in this State.

18 (5) One or more documents proving that the applicant's domicile in a prior
19 state of residency has been terminated.

20 (6) Tax records.

21 (7) A document showing that the applicant has registered with a public or
22 private employment service in this State.

23 (8) Evidence that the applicant has enrolled the applicant's children in a
24 public or private school or child care facility located in this State.

25 (9) Evidence that the applicant is receiving public assistance other than
26 medical assistance in this State.

27 (10) Records from a health department located in this State.

28 (11) Evidence of other social or economic relationships with the State.

29 (c) For applicants, including those who are homeless, who declare under penalty
30 of perjury that they do not have one of the verifying documents in subsection (b) of this
31 section, any other evidence that verifies residence may be considered. However, a
32 declaration, affidavit, or other statement from the applicant or another person that the
33 applicant is a resident is insufficient in the absence of other credible evidence.

34 (d) The Division of Medical Assistance shall not provide payment for medical
35 assistance provided to an applicant unless or until the applicant has met the
36 requirements of this section.

37 (e) Unless otherwise provided for under Title 19 of the Social Security Act, a
38 child under age 18 is a resident of the state where the child's parent or legal guardian is
39 domiciled.

40 (f) This section does not apply to an applicant whose eligibility for medical
41 assistance is excepted from State residency requirements under federal law."

42
43 Requested by: Representatives Nye, Insko, Barnhart

44 **MEDICAID TRANSFER OF ASSETS POLICY APPLICABLE TO TRANSFER**
45 **OF LIFE ESTATES**

46 **SECTION 10.21B.** For the purposes of determining eligibility for Medical
47 Assistance, the Department of Health and Human Services may apply federal transfer of
48 assets policies, as described in Title XIX, Section 1917(c) of the Social Security Act, to
49 (i) life estates purchased by or on behalf of the recipient, other than life estates excluded
50 from countable resources under this section, and (ii) to real property excluded as
51 "income producing", tenancy-in-common, or as nonhomesite property made "income
52 producing" under Title XIX, Section 1902(r)(2) of the Social Security Act. The
53 Department shall exclude from countable resources any life estate in real property that

1 is in the recipient's home, is measured by the recipient's life, and is the result of the
2 transfer of a remainder interest.

3 Federal transfer of assets policies to "income producing" real property under
4 Title XIX, Section 1902(r)(2) of the Social Security Act shall become effective not
5 earlier than October 1, 2001. Federal transfer of asset policies applied to real property
6 excluded as tenancy-in-common, or as nonhomesite property made "income producing"
7 in accordance with this subsection shall become effective not earlier than November 1,
8 2002. Federal transfer of asset policies applied to life estates in accordance with this
9 subsection shall become effective not earlier than October 1, 2005.

10
11 Requested by: Representative Nye

12 **MEDICAID ESTATE RECOVERY TO INCLUDE LIENS ON REAL**
13 **PROPERTY**

14 **SECTION 10.21C.(a)** G.S. 108A-70.5 reads as rewritten:

15 **"§ 108A-70.5. Medicaid Estate Recovery Plan.**

16 (a) There is established in the Department of Health and Human Services, the
17 Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act
18 of 1993, ~~to recover from the estates of recipients of medical assistance an equitable~~
19 ~~amount of the State and federal shares of the cost paid the recipient.~~1993. The
20 Department shall administer the program in accordance with applicable federal law and
21 regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. §
22 1396(p). To the extent allowed by section 1396(p) of Title XIX of the Social Security
23 Act, the Department may impose liens against real property, including the home, of a
24 recipient of medical assistance.

25 (b) As used in this section:

26 (1) "Medical assistance" means medical care services paid for by the
27 North Carolina Medicaid Program on behalf of the recipient:

28 a. If the recipient of any age is receiving ~~these~~ medical care
29 services as an inpatient in a nursing facility, intermediate care
30 facility for the mentally retarded, or other medical institution,
31 and cannot reasonably be expected to be discharged to return
32 home; or

33 b. If the recipient is 55 years of age or older and is receiving ~~these~~
34 ~~medical care services, including related hospital care and~~
35 ~~prescription drugs, for nursing facility services, personal care~~
36 ~~services, or home and community based services.~~one or more
37 of the following medical care services:

38 1. Nursing facility services.

39 2. Home and community-based services.

40 3. Hospital care and prescription drugs related to nursing
41 facility services or home and community-based services.

42 4. Personal care services.

43 5. Medicare premiums.

44 6. Private duty nursing.

45 7. Home health aide services.

46 8. Home health therapy.

47 9. Speech pathology services.

48 10. Hospice services.

49 (2) "Estate" means all the real and personal property considered assets of
50 the estate available for the discharge of debt pursuant to
51 G.S. 28A-15-1.

52 (3) 'Home' means property in which a recipient has, or had immediately
53 before or at the time of the recipient's death, an ownership interest or

1 legal title to, consisting of the recipient's dwelling and the land used
2 and operated in connection with the dwelling.

3 (c) The amount the Department recovers from the estate of any recipient shall not
4 exceed the amount of medical assistance made on behalf of the recipient and shall be
5 recoverable only for medical care services prescribed in subsection (b) of this section.
6 ~~The~~ To the extent that allowable Medicaid claims are not satisfied as a result of the
7 execution of any liens held by the Department, the Department is a fifth-class creditor,
8 as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against
9 an estate; provided, however, that judgments in favor of other fifth-class creditors
10 docketed and in force before the Department seeks recovery for medical assistance shall
11 be paid prior to recovery by the Department.

12 (d) The Department of Health and Human Services shall adopt rules pursuant to
13 Chapter 150B of the General Statutes to implement the Plan, including rules to waive
14 whole or partial recovery ~~when this recovery would be inequitable because it would~~
15 ~~work an undue hardship or~~ because it would not be administratively cost-effective and
16 rules to ensure that all recipients are notified that their estates are subject to recovery at
17 the time they become eligible to receive medical assistance.

18 (e) Regarding trusts that contain the assets of an individual who is disabled as
19 defined in Title 19 of Section 1014(a)(3) of the Social Security Act, as amended, if the
20 trust is established and managed by a nonprofit association, to the extent that amounts
21 remaining in the beneficiary's account upon the death of the beneficiary are not retained
22 by the nonprofit association, the trust pays to the Department from these remaining
23 amounts in the account an amount equal to the total amount of medical assistance paid
24 on behalf of the beneficiary under the North Carolina Medicaid Program."

25 **SECTION 10.21C.(b)** Part 6 of Article 2 of Chapter 108A of the General
26 Statutes is amended by adding the following new sections to read:

27 "§ 108A-70.6. Postponement of estate recovery required in cases of undue
28 hardship.

29 (a) The Department shall postpone or waive estate recovery, including the
30 execution of a lien in whole or in part, when the Department determines that the estate
31 recovery or the execution of the lien would work an undue hardship to an heir or a
32 beneficiary of the Medicaid recipient.

33 (b) A claim of undue hardship to an heir or beneficiary shall be made in writing
34 to the Department within 30 days after the receipt of notification of the Medicaid lien or
35 claim. The claim for hardship shall describe the financial circumstance of the heir or
36 beneficiary and the basis for the claim.

37 (c) An undue hardship exists if:

38 (1) The property subject to the lien has a tax value less than or equal to
39 thirty thousand dollars (\$30,000);

40 (2) The property subject to the lien is the sole source of income for a
41 surviving heir or beneficiary, and the loss of the net income derived
42 from the property would result in the heir's or beneficiary's annual
43 gross income to fall below one hundred percent (100%) of the federal
44 poverty guidelines in the year in which the hardship is claimed; or

45 (3) The sale of the property would be required to satisfy the Department's
46 claim, and all of the following conditions are met:

47 a. The heir or beneficiary resided in the decedent's home on a
48 continual basis for at least 24 months immediately prior to the
49 date of the recipient's death and the heir or beneficiary was
50 using the property as a principal place of residence on the date
51 of the recipient's death;

52 b. The heir or beneficiary has, from the time the Department first
53 presents its claim for recovery against the deceased recipient's

1 estate and after, annual gross income in the amount not
 2 exceeding one hundred fifty percent (150%) of the federal
 3 poverty income standard;

4 c. The heir or beneficiary owns no other real property or agrees to
 5 sell other real property in partial payment of the Department's
 6 claim; and

7 d. The heir or beneficiary owns other assets not exceeding a net
 8 value of thirty thousand dollars (\$30,000).

9 **"§ 108A-70.7. Notice of claim or lien.**

10 (a) The Department shall provide each applicant for medical assistance, or the
 11 applicant's representative, written notice that:

12 (1) Receipt of medical assistance may result in a Medicaid claim or lien
 13 upon the recipient's estate, including the recipient's home, to recover
 14 costs paid on behalf of the recipient for medical assistance in
 15 accordance with G.S. 108A-70.5; and

16 (2) Receipt of medical assistance as an inpatient in a nursing facility,
 17 intermediate care facility for the mentally retarded, or other medical
 18 institution, when the recipient cannot reasonably be expected to be
 19 discharged to return home may result in a lien upon the recipient's
 20 home prior to the recipient's death in accordance with G.S. 108A-70.5.

21 (b) Notice under this section shall also explain the hardship conditions under
 22 which estate recovery, including the execution of a lien, may be postponed or waived.

23 **"§ 108A-70.8. County departments of social services to provide information.**

24 The Department may require the county department of social services administering
 25 medical assistance to gather and provide the Department with the information and
 26 administrative or legal assistance needed to recover medical assistance under
 27 G.S. 108A-70.5. The Department shall pay to the county department of social services
 28 an amount equal to twenty percent (20%) of the State share of recovery collected by the
 29 Department. The Department may withhold payments under this section for a county
 30 department's failure to comply with the Department's requirements under this section."

31
 32 Requested by: Representatives Wright, Stam

33 **MEDICAID WAIVER/TRANSFER OF ASSETS LOOK-BACK**

34 **SECTION 10.21D.** The Department of Health and Human Services,
 35 Division of Medical Assistance, shall request a waiver from the Centers for Medicare
 36 and Medicaid Services (CMS) such that the look-back period for determining transfer of
 37 assets for the purpose of establishing or retaining eligibility for Medicaid may be
 38 increased from three years to five years and from five to eight years for purposes of
 39 estate recovery. If the waiver is granted, the Department shall implement the waiver. If
 40 the waiver is implemented, the increased look-back period shall apply to applications
 41 for establishing or retaining eligibility submitted on and after the effective date of the
 42 waiver. The Department shall report on the status of the waiver to the House of
 43 Representatives Appropriations Subcommittee on Health and Human Services, the
 44 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 45 Research Division not later than April 1, 2006.

46
 47 Requested by: Representatives Insko, Barnhart

48 **NC HEALTH CHOICE APPROPRIATIONS/CLAIMS PROCESSING**

49 **SECTION 10.22.(a)** The total amount of State funds expended for the
 50 Health Insurance Program for Children (NC Health Choice) in the 2005-2006 fiscal year
 51 and the 2006-2007 fiscal year shall not exceed the amount of State funds appropriated to
 52 match federal funds for the Program for the 2003-2004 fiscal year and the 2004-2005

1 fiscal year. The Department shall manage program enrollment in a way that maximizes
2 the number of children served within existing funds.

3 **SECTION 10.22.(b)** The Department of Health and Human Services shall
4 either (i) amend an existing contract, or (ii) issue a Request for Proposal to contract for
5 administration and claims processing of the NC Health Choice Program. The contract
6 shall provide for applying Medicaid rates for service providers as provided by law. The
7 Department shall schedule the review process for proposals received such that the
8 Department has signed a contract with the selected contractor not later than July 1,
9 2006. The contract shall provide for full implementation of administration and claims
10 processing, including the application of Medicaid rates for service providers other than
11 prescription drug and dental care providers, not later than July 1, 2007. The Department
12 shall study the impact of paying dental care providers at Medicaid rates and shall make
13 its recommendation to the Senate Appropriations Committee on Health and Human
14 Services, the House of Representatives Appropriations Subcommittee on Health and
15 Human Services, and the Fiscal Research Division not later than May 1, 2006.

16 **SECTION 10.22.(c)** Effective July 1, 2007, G.S. 108A-70.22,
17 G.S. 108A-70.24, and Part 5 of Article 3 of Chapter 135 of the General Statutes are
18 repealed.

19 **SECTION 10.22.(d)** Effective July 1, 2007, G.S. 108A-70.20 reads as
20 rewritten:

21 "**§ 108A-70.20. Program established.**

22 The Health Insurance Program for Children is established. The Program shall be
23 administered by the Department of Health and Human Services in accordance with this
24 Part and as required under Title XXI and related federal rules and regulations.
25 ~~Administration of Program benefits and claims processing shall be as provided under~~
26 ~~Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

27 **SECTION 10.22.(e)** G.S. 108A-70.21(b) and (d) read as rewritten:

28 "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,
29 copayments, and other cost-sharing charges, health benefits coverage provided to
30 children eligible under the Program shall be equivalent to coverage provided for
31 dependents under the North Carolina Teachers' and State Employees' Comprehensive
32 Major Medical Plan, including optional prepaid plans. Prescription drug providers shall
33 accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the
34 average wholesale price for the prescription drug or the amounts published by the
35 Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and
36 sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per
37 prescription for brand name drugs. ~~All other~~ Except for dental care providers, health care
38 providers providing services to Program enrollees shall accept as payment in full for
39 services rendered the maximum allowable charges under the ~~North Carolina Teachers'~~
40 ~~and State Employees' Comprehensive Major Medical Plan State Medical Assistance~~
41 Program for services less any copayments assessed to enrollees under this Part. Dental
42 care providers providing services to Program enrollees shall accept as payment in full
43 for services rendered the maximum allowable charges under the Teachers' and State
44 Employees' Comprehensive Major Medical Plan for services less any co-payments
45 assessed to enrollees under this Part. No child enrolled in the Plan's self-insured
46 indemnity program shall be required by the Plan to change health care providers as a
47 result of being enrolled in the Program.

48 In addition to the benefits provided under the Plan, the following services and
49 supplies are covered under the Health Insurance Program for Children established under
50 this Part:

- 51 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a
52 12-month period, full mouth X-rays once every 60 months,
53 supplemental bitewing X-rays showing the back of the teeth once

1 during a 12-month period, fluoride applications twice during a
2 12-month period, fluoride varnish, sealants, simple extractions,
3 therapeutic pulpotomies, prefabricated stainless steel crowns, and
4 routine fillings of amalgam or other tooth-colored filling material to
5 restore diseased teeth. No benefits are to be provided for services
6 under this subsection that are not performed by or upon the direction
7 of a dentist, doctor, or other professional provider approved by the
8 Plan nor for services and materials that do not meet the standards
9 accepted by the American Dental Association.

10 (2) Vision: Scheduled routine eye examinations once every 12 months,
11 eyeglass lenses or contact lenses once every 12 months, routine
12 replacement of eyeglass frames once every 24 months, and optical
13 supplies and solutions when needed. Optical services, supplies, and
14 solutions must be obtained from licensed or certified ophthalmologists,
15 optometrists, or optical dispensing laboratories. Eyeglass lenses are
16 limited to single vision, bifocal, trifocal, or other complex lenses
17 necessary for a Plan enrollee's visual welfare. Coverage for oversized
18 lenses and frames, designer frames, photosensitive lenses, tinted
19 contact lenses, blended lenses, progressive multifocal lenses, coated
20 lenses, and laminated lenses is limited to the coverage for single
21 vision, bifocal, trifocal, or other complex lenses provided by this
22 subsection. Eyeglass frames are limited to those made of zylonite,
23 metal, or a combination of zylonite and metal. All visual aids covered
24 by this subsection require prior approval of the Plan. Upon prior
25 approval by the Plan, refractions may be covered more often than once
26 every 12 months.

27 (3) Hearing: Auditory diagnostic testing services and hearing aids and
28 accessories when provided by a licensed or certified audiologist,
29 otolaryngologist, or other hearing aid specialist approved by the Plan.
30 Prior approval of the Plan is required for hearing aids, accessories,
31 earmolds, repairs, loaners, and rental aids.

32 The Department may provide services to children aged birth through five years
33 enrolled in the Program through the State Medical Assistance managed care program.
34 Services provided through the managed care program shall be paid from Program funds.

35 ...
36 (d) Cost-Sharing. – There shall be no deductibles, copayments, or other
37 cost-sharing charges for families covered under the Program whose family income is at
38 or below one hundred fifty percent (150%) of the federal poverty level, except that fees
39 for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each
40 outpatient generic prescription drug and for each outpatient brand-name prescription
41 drug for which there is no generic substitution available. The fee for each outpatient
42 brand-name prescription drug for which there is a generic substitution available is three
43 dollars (\$3.00). Families covered under the Program whose family income is above one
44 hundred fifty percent (150%) of the federal poverty level shall be responsible for
45 copayments to providers as follows:

- 46 (1) Five dollars (\$5.00) per child for each visit to a provider, except that
47 there shall be no copayment required for ~~well-baby, well-child, well~~
48 child or age-appropriate immunization services;
49 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
50 (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug
51 and for each outpatient brand-name prescription drug for which there
52 is no generic substitution available. The fee for each outpatient

1 brand-name prescription drug for which there is a generic substitution
2 available is ten dollars (\$10.00).

3 (4) Twenty dollars (\$20.00) for each emergency room visit unless:

4 a. The child is admitted to the hospital, or

5 b. No other reasonable care was available as determined by the
6 Claims Processing Contractor of the North Carolina Teachers'
7 and State Employees' Comprehensive Major Medical Plan.

8 Copayments required under this subsection for prescription drugs apply only to
9 prescription drugs prescribed on an outpatient basis."

10
11 Requested by: Representatives Insko, Barnhart

12 **LONG-TERM PLAN FOR MEETING MENTAL HEALTH,**
13 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
14 **NEEDS**

15 **SECTION 10.24.(a)** The Secretary of the Department of Health and Human
16 Services shall, in consultation with interested advocacy groups and affected State and
17 local agencies, develop a long-range plan for addressing the mental health,
18 developmental disabilities, and substance abuse services needs of the State. The plan
19 shall be consistent with the plan developed pursuant to G.S. 122C-102, and shall
20 address the following:

21 (1) The services needed at the community level within each LME in order
22 to ensure an adequate level of services to the average number of
23 persons needing the services based on population projections.

24 (2) The full continuum of services needed for each disability group within
25 an LME, including:

26 a. Which services could be regional or multi-LME based;

27 b. What percent of the population each LME would expect to use
28 State-level facilities; and

29 c. An inventory of existing services within each LME for each
30 disability group, and the gaps that exist;

31 (3) Projected growth in services for each disability group within each
32 LME or region that can reasonably be managed over the ensuing
33 five-year period; and

34 (4) Projected start-up costs and the total funding needed in each year from
35 the Trust Fund for Mental Health, Developmental Disabilities, and
36 Substance Abuse Services and Bridge Funding Needs to implement the
37 long-range plan.

38 Funds shall not be transferred from the Trust Fund for Mental Health,
39 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
40 until the Secretary has consulted with the Joint Legislative Commission on
41 Governmental Operations, the Joint Legislative Oversight Committee on Mental Health,
42 Developmental Disabilities, and Substance Abuse Services, and the Chairs of the Senate
43 Appropriations Committee on Health and Human Services and the House of
44 Representatives Appropriations Subcommittee on Health and Human Services.

45 **SECTION 10.24.(b)** Moneys in the Trust Fund established pursuant to
46 G.S. 143-15D shall be used to establish or expand community-based services only if
47 sufficient recurring funds can be identified within the Department from funds currently
48 budgeted for mental health, developmental disabilities, and substance abuse services,
49 area mental health programs or county programs, or local government.

50 **SECTION 10.24.(c)** Not later than December 1, 2006, the Department of
51 Health and Human Services shall report on the implementation of this section to the
52 Senate Appropriations Committee on Health and Human Services, the House of

1 Representatives Appropriations Subcommittee on Health and Human Services, and the
2 Fiscal Research Division.

3
4 Requested by: Representatives Insko, Barnhart

5 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

6 **SECTION 10.25.(a)** The Department of Health and Human Services shall
7 continue the Comprehensive Treatment Services Program for children at risk for
8 institutionalization or other out-of-home placement. The Program shall be implemented
9 by the Department in consultation with the Department of Juvenile Justice and
10 Delinquency Prevention, the Department of Public Instruction, and other affected State
11 agencies. The purpose of the Program is to provide appropriate and medically necessary
12 residential and nonresidential treatment alternatives for children at risk of
13 institutionalization or other out-of-home placement. Program funds shall be targeted for
14 non-Medicaid eligible children. Program funds may also be used to expand a
15 system-of-care approach for services to children and their families statewide. The
16 program shall include the following:

- 17 (1) Behavioral health screening for all children at risk of
18 institutionalization or other out-of-home placement.
- 19 (2) Appropriate and medically necessary residential and nonresidential
20 services for deaf children.
- 21 (3) Appropriate and medically necessary residential and nonresidential
22 treatment services, including placements for sexually aggressive youth.
- 23 (4) Appropriate and medically necessary residential and nonresidential
24 treatment services, including placements for youths needing substance
25 abuse treatment services and children with serious emotional
26 disturbances.
- 27 (5) Multidisciplinary case management services, as needed.
- 28 (6) A system of utilization review specific to the nature and design of the
29 Program.
- 30 (7) Mechanisms to ensure that children are not placed in department of
31 social services custody for the purpose of obtaining mental health
32 residential treatment services.
- 33 (8) Mechanisms to maximize current State and local funds and to expand
34 use of Medicaid funds to accomplish the intent of this Program.
- 35 (9) Other appropriate components to accomplish the Program's purpose.
- 36 (10) The Secretary of the Department of Health and Human Services may
37 enter into contracts with residential service providers.
- 38 (11) A system of identifying and tracking children placed outside of the
39 family unit in group homes, therapeutic foster care home settings, and
40 other out-of-home placements.

41 **SECTION 10.25.(b)** In order to ensure that children at risk for
42 institutionalization or other out-of-home placement are appropriately served by the
43 mental health, developmental disabilities, and substance abuse services system, the
44 Department of Health and Human Services, Division of Mental Health, Developmental
45 Disabilities, and Substance Abuse Services, shall do the following with respect to
46 services provided to these children:

- 47 (1) Provide only those treatment services that are medically necessary.
- 48 (2) Implement utilization review of services provided.
- 49 (3) Adopt the following guiding principles for the provision of services:
 - 50 a. Service delivery system must be outcome-oriented and
51 evaluation-based.
 - 52 b. Services should be delivered as close as possible to the child's
53 home.

- 1 c. Services selected should be those that are most efficient in
- 2 terms of cost and effectiveness.
- 3 d. Services should not be provided solely for the convenience of
- 4 the provider or the client.
- 5 e. Families and consumers should be involved in decision making
- 6 throughout treatment planning and delivery.
- 7 (4) Implement all of the following cost-reduction strategies:
- 8 a. Preauthorization for all services except emergency services.
- 9 b. Levels of care to assist in the development of treatment plans.
- 10 c. Clinically appropriate services.

11 **SECTION 10.25.(c)** The Department shall collaborate with other affected
12 State agencies such as the Department of Juvenile Justice and Delinquency Prevention,
13 the Department of Public Instruction, the Administrative Office of the Courts, and with
14 local departments of social services, area mental health programs, and local education
15 agencies to eliminate cost shifting and facilitate cost-sharing among these governmental
16 agencies with respect to the treatment and placement services.

17 **SECTION 10.25.(d)** The Department shall not allocate funds appropriated
18 for Program services until a Memorandum of Agreement has been executed between the
19 Department of Health and Human Services, the Department of Public Instruction, and
20 other affected State agencies. The Memorandum of Agreement shall address
21 specifically the roles and responsibilities of the various departmental divisions and
22 affected State agencies involved in the administration, financing, care, and placement of
23 children at risk of institutionalization or other out-of-home placement. The Department
24 shall not allocate funds appropriated in this act for the Program until Memoranda of
25 Agreement between local departments of social services, area mental health programs,
26 local education agencies, and the Administrative Office of the Courts and the
27 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are
28 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall
29 address issues pertinent to local implementation of the Program, including provision for
30 the immediate availability of student records to a local school administrative unit
31 receiving a child placed in a residential setting outside the child's home county.

32 **SECTION 10.25.(e)** Notwithstanding any other provision of law to the
33 contrary, services under the Comprehensive Treatment Services Program are not an
34 entitlement for non-Medicaid eligible children served by the Program.

35 **SECTION 10.25.(f)** Of the funds appropriated in this act for the
36 Comprehensive Treatment Services Program, the Department of Health and Human
37 Services shall establish a reserve of three percent (3%) to ensure availability of these
38 funds to address specialized needs for children with unique or highly complex
39 problems.

40 **SECTION 10.25.(g)** The Department of Health and Human Services, in
41 conjunction with the Department of Juvenile Justice and Delinquency Prevention, the
42 Department of Public Instruction, and other affected agencies, shall report on the
43 following Program information:

- 44 (1) The number and other demographic information of children served.
- 45 (2) The amount and source of funds expended to implement the Program.
- 46 (3) Information regarding the number of children screened, specific
47 placement of children, including the placement of children in programs
48 or facilities outside of the child's home county, and treatment needs of
49 children served.
- 50 (4) The average length of stay in residential treatment, transition, and
51 return to home.

- 1 (5) The number of children diverted from institutions or other out-of-home
- 2 placements such as training schools and State psychiatric hospitals and
- 3 a description of the services provided.
- 4 (6) Recommendations on other areas of the Program that need to be
- 5 improved.
- 6 (7) Other information relevant to successful implementation of the
- 7 Program.

8 **SECTION 10.25.(h)** The Department shall submit a report on December 1,
9 2005, on the implementation of this section and a final report not later than April 1,
10 2006, to the House of Representatives Appropriations Subcommittee on Health and
11 Human Services, the Senate Appropriations Committee on Health and Human Services,
12 the Joint Legislative Oversight Committee on Mental Health, Developmental
13 Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

14
15 Requested by: Representatives Insko, Barnhart

16 **CHILD AND FAMILY TEAMS/INTEGRATED SERVICES PROGRAM FOR**
17 **CHILDREN AND FAMILIES**

18 **SECTION 10.25A.(a)** Program established. – There is established the
19 Integrated Services Program for Children and Families. The purpose of the Program is
20 to identify and coordinate appropriate community services and supports for children "at
21 risk" and their families. The Program shall be based on accountability, the development
22 of a strong infrastructure of interagency collaboration, individualized strengths-based
23 care, cultural competence, child and family involvement, and community-based services
24 delivered in the most appropriate and natural settings for the child and the child's
25 family. The Department of Health and Human Services, the Department of Public
26 Instruction, the Department of Juvenile Justice and Delinquency Prevention, the
27 Administrative Office of the Courts, and other State agencies that provide services for
28 children shall share responsibility and accountability to improve outcomes for children
29 with or at risk for academic, behavioral, health, social, or safety problems and who
30 require assistance from multiple agencies in order to succeed in school and live with
31 their families or in a family-like setting in their community.

32 **SECTION 10.25A.(b)** The integrated services program for children and
33 families shall be based on the following principles:

- 34 (1) One child, one team, one plan; and
- 35 (2) A child "at risk" may enter the system of care through any
- 36 participating agency.
- 37 (3) Services shall be:
 - 38 a. Specified in one unified Child and Family Plan that is
 - 39 outcome-oriented and evaluation-based;
 - 40 b. Planned, delivered, and monitored through one unified School-
 - 41 or Community-Based Child and Family Team;
 - 42 c. Delivered as close as possible to the child's home;
 - 43 d. The most efficient in terms of cost and effectiveness;
 - 44 e. Out-of-home placements for children shall be a last resort and
 - 45 shall include concrete plans to bring the children back to a
 - 46 stable, permanent home, their schools and their community; and
 - 47 f. Families and consumers shall be involved in decision making
 - 48 throughout service planning, delivery, and monitoring.

49 **SECTION 10.25A.(c)** Leadership Council established. – There is
50 established the North Carolina Child and Family Leadership Council ("Council"). The
51 Superintendent of Public Instruction and the Secretary of Health and Human Services
52 shall serve as cochairs of the Council. Council membership shall include the Secretary
53 of the Department of Juvenile Justice and Delinquency Prevention, the Director of the

1 Administrative Office of the Courts, and other members as appointed by the Governor.
 2 The Council shall ensure that policies addressing the needs of children are consistent;
 3 that children receiving services are screened initially to identify needs; assessed
 4 periodically to determine progress and ensure sustained improvement in educational,
 5 health, safety, behavioral, and social outcomes; and that the Program promotes the more
 6 effective and efficient use of resources and eliminates duplication of effort.

7 The Council shall meet at least quarterly to:

- 8 (1) Develop a memorandum of agreement (MOA) to be reviewed and
 9 signed annually among the named State agencies to define the
 10 purposes of the program and to ensure that program goals are
 11 accomplished.
- 12 (2) Work with local collaboratives or councils to develop a local MOA.
- 13 (3) Develop a plan and time line for implementation of school-based child
 14 and family teams.
- 15 (4) Respond to and resolve State policy issues identified at the local level
 16 which interfere with effective implementation of the Program.
- 17 (5) Direct the integration of resources as needed to meet goals.
- 18 (6) Ensure appropriate outcomes.
- 19 (7) Establish criteria for defining success in local programs.
- 20 (8) Review progress made on integrating policies and resources across
 21 State agencies, reaching definitive child and family outcomes, and
 22 accomplishing other goals.
- 23 (9) Report semiannually on progress made to the Office of the Governor
 24 and the General Assembly.

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

27 **SECTION 10.25A.(d)** Local level responsibilities. – A Local Child and
 28 Family Team Advisory Committee shall be chaired by the superintendent of the local
 29 school administrative unit and the head of a participating county agency as elected by
 30 the Committee. The Committee shall include the directors of the county departments of
 31 social services and health, the directors of the local management entity, the chief district
 32 court judge, the chief court counselor, and representatives of other agencies providing
 33 services to children, as designated by the Committee. They shall sign and implement
 34 annually a memorandum of agreement (MOA) approved by the State Council. A copy
 35 of the MOA shall be maintained on file at the State and local level of each of the named
 36 agencies and in the Office of the Governor.

37 In accordance with the local MOA, each local committee shall develop a plan
 38 for integrating children's services. The plan shall include:

- 39 (1) Specified outcomes;
- 40 (2) Implementation process, including milestones;
- 41 (3) Program organization and agency responsibilities;
- 42 (4) Criteria for measuring program success;
- 43 (5) Reporting requirements;
- 44 (6) Administrative and technology support requirements;
- 45 (7) Training requirements;
- 46 (8) Resources requirements;
- 47 (9) Time periods in which the specified services must be provided; and
- 48 (10) Defined commitments of staff leadership and time across agencies and
 49 at multiple levels.

50 The plan shall be implemented in each county using all available resources.

51 **SECTION 10.25A.(e)** Program Services. – In order to ensure that children
 52 receiving Program services are appropriately served, the affected State and local
 53 agencies shall:

- 1 (1) Provide only those services that are known to be effective based upon
- 2 research or national standards of best practices.
- 3 (2) Develop a set of outcomes that are shared across affected State
- 4 agencies to measure children's progress in home, school, and
- 5 community settings.
- 6 (3) Implement utilization review of services provided across affected State
- 7 agencies to ensure that children's needs are met.
- 8 (4) Named State agencies, local departments of social services, local
- 9 management entities and their provider communities, and local
- 10 education agencies shall eliminate cost shifting and shall facilitate
- 11 cost-sharing among governmental agencies with respect to service
- 12 development, service delivery, and monitoring for Program children
- 13 and their families.

14 **SECTION 10.25A.(f)** Report to Leadership Council. – Each county shall

15 report annually to the North Carolina Child and Family Leadership Council on the

16 status of the Program. The report shall include the following:

- 17 (1) The number and other demographic information of children served.
- 18 (2) The amount and source of funds expended to implement the Program.
- 19 (3) Information regarding how families and consumers are involved in
- 20 decision making throughout service planning, delivery, and
- 21 monitoring.
- 22 (4) Information regarding the number of children screened, specific
- 23 placement of children, including the placement of children in programs
- 24 or facilities outside of the child's home, outside the child's county, and
- 25 service needs of children served.
- 26 (5) The average length of stay in residential treatment, transition, and
- 27 return to home.
- 28 (6) The number of children diverted from institutions or other out-of-home
- 29 placements such as detention, Youth Development Centers, State
- 30 psychiatric hospitals, those diverted from the custody of the
- 31 department of social services because of unmet behavioral health
- 32 needs, and a description of the services provided.
- 33 (7) Recommendations on other areas of the Program that need
- 34 improvement.
- 35 (8) Efficiencies created by implementing the Program.
- 36 (9) Other information relevant to successful implementation of the
- 37 Program.

38 **SECTION 10.25A.(g)** The North Carolina Child and Family Leadership

39 Council shall submit an interim report on implementation of this section to the House of

40 Representatives Appropriations Subcommittee on Health and Human Services, the

41 Senate Appropriations Committee on Health and Human Services, the House

42 Appropriations Subcommittee on Justice and Public Safety, the Joint Legislative

43 Education Oversight Committee, and the Fiscal Research Division on or before April 1,

44 2006, and a final report on or before January 1, 2007.

45

46 Requested by: Representatives Insko, Barnhart

47 **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

48 **SECTION 10.26.(a)** In order to ensure that multiply diagnosed adults are

49 appropriately served by the mental health, developmental disabilities, and substance

50 abuse services system, the Department of Health and Human Services, Division of

51 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the

52 following with respect to services provided to these adults:

- 1 (1) Implement the following guiding principles for the provision of
- 2 services:
- 3 a. Service delivery system must be outcome-oriented and
- 4 evaluation-based.
- 5 b. Services should be delivered as close as possible to the
- 6 consumer's home.
- 7 c. Services selected should be those that are most efficient in
- 8 terms of cost and effectiveness.
- 9 d. Services should not be provided solely for the convenience of
- 10 the provider or the client.
- 11 e. Families and consumers should be involved in decision making
- 12 throughout treatment planning and delivery.
- 13 (2) Provide those treatment services that are medically necessary.
- 14 (3) Implement utilization review of services provided.

15 **SECTION 10.26.(b)** The Department of Health and Human Services shall
 16 implement all of the following cost-reduction strategies:

- 17 (1) Preauthorization for all services except emergency services.
- 18 (2) Criteria for determining medical necessity.
- 19 (3) Clinically appropriate services.

20 **SECTION 10.26.(c)** No State funds shall be used for the purchase of
 21 single-family or other residential dwellings to house multiply diagnosed adults.

22 **SECTION 10.26.(d)** The Department shall submit a progress report on
 23 implementation of this section not later than February 1, 2006, and a final report not
 24 later than May 1, 2006, to the Senate Appropriations Committee on Health and Human
 25 Services, the House of Representatives Appropriations Subcommittee on Health and
 26 Human Services, the Joint Legislative Oversight Committee on Mental Health,
 27 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
 28 Division.

29
 30 Requested by: Representatives Insko, Barnhart

31 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
 32 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2007 GENERAL**
 33 **ASSEMBLY**

34 **SECTION 10.27.** Section 4 of S.L. 2001-437, as amended by Section 10.30
 35 of S.L. 2002-126, and as further amended by Section 10.10 of S.L. 2003-284, reads as
 36 rewritten:

37 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,
 38 2002. ~~Section 2 of this act becomes effective only if funds are appropriated by the 2005~~
 39 ~~General Assembly for that purpose.~~ Section 2 of this act becomes effective July 1 of the
 40 fiscal year for which funds are appropriated by the 2005-General Assembly for that
 41 purpose. The remainder of this act is effective when it becomes law."
 42

43 Requested by: Representatives Insko, Barnhart

44 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

45 **SECTION 10.28.(a)** In keeping with the United States Supreme Court
 46 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services
 47 to clients in the least restrictive and most appropriate environment, the Department of
 48 Health and Human Services shall continue to implement a plan for the transition of
 49 patients from State psychiatric hospitals to the community or to other long-term care
 50 facilities, as appropriate. The goal is to develop mechanisms and identify resources
 51 needed to enable patients and their families to receive the necessary services and
 52 supports based on the following guiding principles:

- 1 (1) Individuals shall be provided acute psychiatric care in non-State
- 2 facilities when appropriate.
- 3 (2) Individuals shall be provided acute psychiatric care in State facilities
- 4 only when non-State facilities are unavailable.
- 5 (3) Individuals shall receive evidenced-based psychiatric services and care
- 6 that are cost-efficient.
- 7 (4) The State shall minimize cost shifting to other State and local facilities
- 8 or institutions.

9 **SECTION 10.28.(b)** The Department of Health and Human Services shall
10 conduct an analysis of the individual patient service needs and shall develop and
11 implement an individual transition plan, as appropriate, for patients in each hospital.
12 The State shall ensure that each individual transition plan, as appropriate, shall take into
13 consideration the availability of appropriate alternative placements based on the needs
14 of the patient and within resources available for the mental health, developmental
15 disabilities, and substance abuse services system. In developing each plan, the
16 Department shall consult with the patient and the patient's family or other legal
17 representative.

18 **SECTION 10.28.(c)** In accordance with the plan established in subsections
19 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
20 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
21 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
22 These funds shall be used to facilitate the transition of clients into appropriate
23 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
24 savings realized through implementation of this section shall be retained by the
25 Department of Health and Human Services, Division of Mental Health, Developmental
26 Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a)
27 and (b) of this section and (ii) to support the recurring costs of additional
28 community-based placements from Division facilities in accordance with Olmstead vs.
29 L.C. & E.W.

30 **SECTION 10.28.(d)** The Department of Health and Human Services shall
31 submit reports on the status of implementation of this section to the Joint Legislative
32 Commission on Governmental Operations, the Senate Appropriations Committee on
33 Health and Human Services, the House of Representatives Appropriations
34 Subcommittee on Health and Human Services, the Joint Legislative Oversight
35 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
36 Services, and the Fiscal Research Division. These reports shall be submitted on
37 December 1, 2005, and May 1, 2006.

38
39 Requested by: Representatives Insko, Barnhart

40 **MENTAL RETARDATION CENTER DOWNSIZING**

41 **SECTION 10.29.(a)** In accordance with the Department of Health and
42 Human Services' plan for mental health, developmental disabilities, and substance abuse
43 services system reform, the Department shall ensure that the downsizing of the State's
44 regional mental retardation facilities is continuously based upon residents' needs and the
45 availability of community-based services with a targeted goal of four percent (4%) each
46 year. The Department shall implement cost-containment and reduction strategies to
47 ensure the corresponding financial and staff downsizing of each facility. The
48 Department shall manage the client population of the mental retardation centers in order
49 to ensure that placements for ICF/MR level of care shall be made in non-State facilities.
50 Admissions to State ICF/MR facilities are permitted only as a last resort and only upon
51 approval of the Department. The corresponding budgets for each of the State mental
52 retardation centers shall be reduced, and positions shall be eliminated as the census of
53 each facility decreases. At no time shall mental retardation center positions be

1 transferred to other units within a facility or assigned nondirect care activities such as
2 outreach.

3 **SECTION 10.29.(b)** The Department of Health and Human Services shall
4 apply any savings in State appropriations in each year of the 2005-2007 fiscal biennium
5 that result from reductions in beds or services as follows:

- 6 (1) The Department shall place nonrecurring savings in the Trust Fund for
7 Mental Health, Developmental Disabilities, and Substance Abuse
8 Services and Bridge Funding Needs and use the savings to facilitate
9 the transition of clients into appropriate community-based services and
10 support in accordance with G.S. 143-15.3D;
- 11 (2) The Department of Health and Human Services, Division of Mental
12 Health, Developmental Disabilities, and Substance Abuse Services,
13 shall retain recurring savings realized through implementation of this
14 section to support the recurring costs of additional community-based
15 placements from Division facilities in accordance with Olmstead vs.
16 L.C. & E.W. In determining the savings in this section, savings shall
17 include all savings realized from the downsizing of the State mental
18 retardation centers, including the savings in direct State appropriations
19 in the budgets of the State mental retardation centers; and
- 20 (3) The Department of Health and Human Services, Division of Medical
21 Assistance, shall transfer any recurring Medicaid savings resulting
22 from the downsizing of State-operated MR centers from the ICF-MR
23 line in Medicaid to the CAP-MR/DD line.

24 **SECTION 10.29.(c)** Notwithstanding G.S. 122C-181(c), the Secretary of
25 Health and Human Services shall close one mental retardation center effective July 1,
26 2006. The Department of Health and Human Services shall maintain downsizing of
27 other mental retardation centers occurring in the 2005-2006 fiscal year for the
28 2006-2007 fiscal year. The Department shall accomplish downsizing in accordance with
29 this section and the State Plan for Mental Health, Developmental Disabilities, and
30 Substance Abuse Services. The Department shall use all savings resulting from
31 downsizing occurring on and after July 1, 2005, as set forth in subsection (b) of this
32 section.

33 **SECTION 10.29.(d)** The Department of Health and Human Services shall
34 report on its progress in complying with this section to the Senate Appropriations
35 Committee on Health and Human Services, the House of Representatives
36 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
37 Division. The Department shall submit the progress report no later than January 15,
38 2006, and submit a final report no later than May 1, 2006.

39 Requested by: Representatives Insko, Barnhart

40 **PRIVATE AGENCY UNIFORM COST-FINDING REQUIREMENT**

41 **SECTION 10.30.** G.S. 122C-147.2 reads as rewritten:

42 **"§ 122C-147.2. Purchase of services and reimbursement rates.**

43 **(a)** When funds are used to purchase services, the following provisions apply:

- 44 (1) Reimbursement rates for specific types of service shall be negotiated
45 between the Secretary and the area authority. The negotiation shall
46 begin with the rate determined by ~~the a~~ standardized cost-finding and
47 rate-setting procedure ~~that is required by G.S. 122C-143.2(a) or by~~
48 ~~another method~~ approved by the Secretary.
- 49 (2) The reimbursement rate used for the payment of services shall
50 incorporate operating and administrative costs, including costs for
51 property in accordance with G.S. 122C-147.
52

1 (b) To ensure uniformity in rates charged to area programs and funded with
2 State-allocated resources, the Division of Mental Health, Developmental Disabilities,
3 and Substance Abuse Services of the Department of Health and Human Services may
4 require a private agency that provides services under contract with an area program or
5 county program, except for hospital services that have an established Medicaid rate, to
6 complete an agency-wide uniform cost finding in accordance with subsection (a) of this
7 section. The resulting cost shall be the maximum included for the private agency in the
8 contracting area program's unit cost finding. If a private agency fails to timely and
9 accurately complete the required agency-wide uniform cost finding in a manner
10 acceptable to the Department's controller's office, the Department may suspend all
11 Department funding and payment to the private agency until such time as an acceptable
12 cost finding has been completed by the private agency and approved by the
13 Department's controller's office."
14

15 Requested by: Representatives Insko, Barnhart

16 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
17 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
18 **SUBSTANCE ABUSE SERVICES**

19 **SECTION 10.31.** The Department of Health and Human Services, Division
20 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in
21 cooperation with area mental health authorities and county programs, identify and
22 eliminate administrative and fiscal barriers created by existing State and local policies
23 and procedures in the delivery of community-based mental health, developmental
24 disabilities, and substance abuse services provided through the area programs and
25 county programs, including services provided through the Comprehensive Treatment
26 Services Program for Children and services delivered to multiply diagnosed adults. The
27 Department shall implement changes in policies and procedures in order to facilitate all
28 of the following:

- 29 (1) The provision of services to adults and children as defined in the
30 Mental Health System Reform State Plan as priority or targeted
31 populations.
- 32 (2) A revised system of allocating State and federal funds to area mental
33 health authorities and county programs that reflects projected needs,
34 including the impact of system reform efforts rather than historical
35 allocation practices and spending patterns.
- 36 (3) The provision of services to children not deemed eligible for the
37 Comprehensive Treatment Services Program for Children, but who
38 would otherwise be in need of medically necessary treatment services
39 to prevent out-of-home placement.
- 40 (4) The provision of services in the community to adults remaining in and
41 being placed in State institutions addressed in Olmstead v. L.C. &
42 E.W.

43 Area mental health, developmental disabilities, and substance abuse services
44 authorities and county programs shall use all funds appropriated for and necessary to
45 provide mental health, developmental disabilities, and substance abuse services to meet
46 the need for these services.

47 The Department, in consultation with the area mental health authorities and
48 county programs, shall report to the House of Representatives Appropriations
49 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
50 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
51 Health, Developmental Disabilities, and Substance Abuse Services on the progress in
52 implementing these changes. The report shall be submitted on October 1, 2005, and
53 February 1, 2006.

Requested by: Representatives Insko, Barnhart

RULES PERTAINING TO CONFLICT OF INTEREST IN REFERRALS TO PROVIDER AGENCIES

SECTION 10.33. G.S. 122C-26 reads as rewritten:

"§ 122C-26. Powers of the Commission.

In addition to other powers and duties, the Commission shall exercise the following powers and duties:

- (1) Adopt, amend, and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;
- (2) Issue declaratory rulings needed to implement the provisions and purposes of this Article;
- (3) Adopt rules governing appeals of decisions to approve or deny licensure under this Article;
- (4) Adopt rules for the waiver of rules adopted under this Article; and
- (5) Adopt rules applicable to facilities licensed under this Article:
 - a. Establishing personnel requirements of staff employed in facilities;
 - b. Establishing qualifications of facility administrators or directors;
 - c. Establishing requirements for death reporting including confidentiality provisions related to death reporting; ~~and~~
 - d. Establishing requirements for patient ~~advocates~~; advocates; and
 - e. Providing that facility personnel that have a pecuniary interest in any provider agency that provides services to facility clients may not refer facility clients to provider agencies."

Requested by: Representatives Insko, Barnhart

LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO STUDY OVERSIGHT AND MONITORING BY DEPARTMENT OF HEALTH AND HUMAN SERVICES OF SERVICES TO MENTAL HEALTH CONSUMERS

SECTION 10.34. The Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the oversight and monitoring roles and activities of the Divisions of: Social Services, Facility Services, Medical Assistance, and Mental Health, Developmental Disabilities, and Substance Abuse Services, of the Department of Health and Human Services. The study shall focus on how the oversight and monitoring activities benefit consumers of mental health, developmental disabilities, and substance abuse services in residential settings, and shall include in its report recommendations on ensuring quality of care and increasing efficiency in the provision of services. The Oversight Committee shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2006.

Requested by: Representative Insko

APPEALS PROCESS FOR CLIENTS OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES PROGRAMS

SECTION 10.35. G.S. 122C-151.2 reads as rewritten:

1 **"§ 122C-151.2. Appeal by area authorities and county ~~programs~~programs; rules**
 2 **governing appeals process for clients of area authorities or county**
 3 **programs.**

4 (a) The area authority or county program may appeal to the Commission any
 5 action regarding rules under the jurisdiction of the Commission or rules under the joint
 6 jurisdiction of the Commission and the Secretary.

7 (b) The area authority or county program may appeal to the Secretary any action
 8 regarding rules under the jurisdiction of the Secretary.

9 (b1) The Commission shall adopt rules governing an appeals process for clients to
 10 the Division of Mental Health, Developmental Disabilities, and Substance Abuse
 11 Services and the Secretary. The appeals process shall ensure that area authority and
 12 county program services meet the requirements of applicable statutes and the rules of
 13 the Commission and the Secretary.

14 (b2) By January 1, 2006, the Department of Health and Human Services shall
 15 consult with the State Consumers and Families Advisory Council to develop and
 16 implement a standardized appeals process to be followed by each local management
 17 entity (LME). The appeals process shall include a requirement that the LMEs inform
 18 each client of the client's right to complain directly to the State Office of Consumer
 19 Empowerment and Customer Services in the Division of Mental Health, Developmental
 20 Disabilities, and Substance Abuse Services.

21 (c) Appeals shall be conducted according to rules adopted by the Commission
 22 and Secretary and in accordance with Chapter 150B of the General Statutes."
 23

24 Requested by: Representatives Insko, Barnhart

25 **DHHS STUDY OF ACCREDITATION OF RESIDENTIAL TREATMENT**
 26 **FACILITIES**

27 **SECTION 10.35A.(a)** The Department of Health and Human Services shall
 28 study the feasibility of establishing accreditation requirements for residential treatment
 29 facilities. In conducting the study, the Department shall identify accreditation
 30 organizations and a review of their standards and shall consider the following:

- 31 (1) The financial and other impact accreditation will have on the facilities
 32 affected.
- 33 (2) The feasibility of developing an alternative to accreditation for small
 34 facilities.
- 35 (3) The potential for a reduction in the number of visits required by a local
 36 management entity if a residential facility were accredited.
- 37 (4) Review of accreditation requirements of other states.
- 38 (5) Cost of accreditation to the State and affected providers.
- 39 (6) The specific requirements to meet accreditation.

40 **SECTION 10.35A.(b)** The Department of Health and Human Services shall
 41 report its findings and recommendations to the House of Representatives Appropriations
 42 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
 43 Health and Human Services, and the Fiscal Research Division not later than March 1,
 44 2006.
 45

46 Requested by: Representatives Insko, Barnhart

47 **SENIOR CENTER OUTREACH**

48 **SECTION 10.37.(a)** Funds appropriated to the Department of Health and
 49 Human Services, Division of Aging and Adult Services, for the 2005-2007 fiscal
 50 biennium, shall be used by the Division of Aging and Adult Services to enhance senior
 51 center programs as follows:

- 52 (1) To expand the outreach capacity of senior centers to reach unserved or
 53 underserved areas; or

1 (2) To provide start-up funds for new senior centers.

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

3 **SECTION 10.37.(b)** Prior to funds being allocated pursuant to this section
4 for start-up funds for a new senior center, the county commissioners of the county in
5 which the new center will be located shall:

6 (1) Formally endorse the need for such a center;

7 (2) Formally agree on the sponsoring agency for the center; and

8 (3) Make a formal commitment to use local funds to support the ongoing
9 operation of the center.

10 **SECTION 10.37.(c)** State funding shall not exceed seventy-five percent
11 (75%) of reimbursable costs.

12
13 Requested by: Representatives Insko, Barnhart

14 **STATE-COUNTY SPECIAL ASSISTANCE**

15 **SECTION 10.38.(a)** The eligibility of Special Assistance recipients residing
16 in adult care homes on August 1, 1995, shall not be affected by an income reduction in
17 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
18 Methodology Report and Related Services, providing these recipients are otherwise
19 eligible. The maximum monthly rate for these residents in adult care home facilities
20 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

21 **SECTION 10.38.(b)** Effective October 1, 2005, the maximum monthly rate
22 for residents in adult care home facilities shall be one thousand one hundred twenty-four
23 dollars (\$1,124) per month per resident unless adjusted by the Department in
24 accordance with subsection (e) of this section.

25 **SECTION 10.38.(c)** Effective October 1, 2005, the maximum monthly rate
26 for residents in Alzheimer/Dementia special care units shall be one thousand five
27 hundred fifteen dollars (\$1,515) per month per resident unless adjusted by the
28 Department in accordance with subsection (e) of this section.

29 **SECTION 10.38.(d)** It is the intent of the General Assembly to protect
30 individuals who meet current eligibility standards for State-County Special Assistance
31 from becoming disenfranchised from the program as a result of any changes proposed in
32 this section. Therefore, subject to any necessary approvals by the Center for Medicare &
33 Medicaid Services (CMS), the eligibility of Special Assistance recipients who resided in
34 adult care homes on September 30, 2003, and remain continuously eligible shall not be
35 affected by an income reduction in the Special Assistance eligibility criteria, providing
36 these recipients are otherwise eligible. The maximum monthly rate for these residents in
37 adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month
38 per resident.

39 **SECTION 10.38.(e)** Notwithstanding any other provision of this section, the
40 Department of Health and Human Services shall review activities and costs related to
41 the provision of care in adult care homes and shall determine what costs may be
42 considered to properly maximize allowable reimbursement available through Medicaid
43 personal care services for adult care homes (ACH-PCS) under federal law. As
44 determined, and with any necessary approval from the Centers for Medicare and
45 Medicaid Services (CMS), and the approval of the Office of State Budget and
46 Management, the Department may transfer necessary funds from the State-County
47 Special Assistance program within the Division of Social Services to the Division of
48 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
50 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
51 The established rate for State-County Special Assistance set forth in subsections (b) and
52 (c) of this section shall be adjusted by the Department to reflect any transfer of funds
53 from the Division of Social Services to the Division of Medical Assistance and related

1 transfer costs and responsibilities from State-County Special Assistance to the Medicaid
2 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
3 Special Assistance rate shall be effective with the effective date of increased
4 reimbursement under ACH-PCS. The Division of Medical Assistance shall apply
5 income disregards for current recipients such that cost and rate adjustments made under
6 this subsection do not render otherwise eligible recipients ineligible for services. In no
7 event shall the reimbursement for services through the ACH-PCS exceed the average
8 cost of such services as determined by the Department from review of cost reports as
9 required and submitted by adult care homes. The Department shall report any transfers
10 of funds and modifications of rates to the House of Representatives Appropriations
11 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
12 Health and Human Services, and the Fiscal Research Division.

13 **SECTION 10.38.(f)** Subject to approval by the Centers for Medicare and
14 Medicaid Services (CMS), the Department may implement a less restrictive income
15 methodology allowed under Section 1902(r)(2) of the Social Security Act. The
16 methodology shall be an income disregard for a special purpose and shall be applied
17 only to individuals whose countable income exceeds the current State-County Special
18 Assistance payment standard. The amount of the disregard shall not exceed the value of
19 reductions in the Special Assistance rate occurring on and after October 1, 2003. The
20 income disregarded under this subsection shall be used to reduce the Medicaid payment
21 for the individual's personal care services provided in an adult care home.

22 Subsequent to approval by CMS under this subsection, the maximum value of
23 an income disregard may be increased by the amount of any reduction in the Special
24 Assistance rate authorized under this section, plus the amount calculated by the annual
25 cost-of-living adjustment factor applied to Supplemental Security Income and Social
26 Security Benefits, rounded up to the nearest dollar.

27 The effective date of an income disregard approved under this subsection
28 shall be the first day of the third month following approval by CMS.

29
30 Requested by: Representatives Insko, Barnhart

31 **SPECIAL ASSISTANCE IN-HOME**

32 **SECTION 10.39.(a)** The Department of Health and Human Services may
33 use funds from the existing State-County Special Assistance for Adults budget to
34 provide Special Assistance payments to eligible individuals in in-home living
35 arrangements. These payments may be made for up to 1,000 individuals during the
36 2005-2006 fiscal year and the 2006-2007 fiscal year. The standard monthly payment to
37 individuals enrolled in the Special Assistance in-home program shall be seventy-five
38 percent (75%) of the monthly payment the individual would receive if the individual
39 resided in an adult care home and qualified for Special Assistance, except if a lesser
40 payment amount is appropriate for the individual as determined by the local case
41 manager. For State fiscal year 2005-2006, qualified individuals shall not receive
42 payments at rates less than they would have been eligible to receive in State fiscal year
43 2004-2005. The Department shall implement Special Assistance in-home eligibility
44 policies and procedures to assure that in-home program participants are those
45 individuals who need and, but for the in-home program, would seek placement in an
46 adult care home facility. The Department's policies and procedures shall include the use
47 of a functional assessment. The Department shall make this in-home option available to
48 all counties on a voluntary basis. To the maximum extent possible, the Department shall
49 consider geographic balance in the dispersion of payments to individuals across the
50 State.

51 **SECTION 10.39.(b)** The Department shall report on or before January 1,
52 2006, and on or before January 1, 2007, to the cochairs of the House of Representatives
53 Appropriations Committee, the House of Representatives Appropriations Subcommittee

1 on Health and Human Services, the cochairs of the Senate Appropriations Committee,
2 and the cochairs of the Senate Appropriations Committee on Health and Human
3 Services. This report shall include the following information:

- 4 (1) A description of cost savings that result from allowing individuals
5 eligible for State-County Special Assistance the option of remaining in
6 the home.
- 7 (2) A complete fiscal analysis of the in-home option to include all federal,
8 State, and local funds expended.
- 9 (3) How much case management is needed and which types of individuals
10 are most in need of case management.
- 11 (4) The geographic location of individuals receiving payments under this
12 section.
- 13 (5) A description of the services purchased with these payments.
- 14 (6) A description of the income levels of individuals who receive
15 payments under this section and the impact on the Medicaid program.
- 16 (7) Findings and recommendations as to the feasibility of continuing or
17 expanding the in-home program.
- 18 (8) The level and quantity of services (including personal care services)
19 provided to the demonstration project participants compared to the
20 level and quantity of services for residents in adult care homes.

21 **SECTION 10.39.(c)** The Department shall incorporate data collection tools
22 designed to compare quality of life among institutionalized versus noninstitutionalized
23 populations (i.e., an individual's perception of his or her own health and well-being,
24 years of healthy life, and activity limitations). To the extent national standards are
25 available, the Department shall utilize those standards.

26
27 Requested by: Representatives Insko, Barnhart

28 **LICENSURE OF RESIDENTIAL TREATMENT FACILITIES**

29 **SECTION 10.40.(a)** Article 2 of Chapter 122C of the General Statutes is
30 amended by adding the following new section to read:

31 **"§ 122C-23.1. Licensure of residential treatment facilities.**

32 The General Assembly finds:

- 33 (1) That much of the care for residential treatment facility residents is paid
34 by the State and the counties;
- 35 (2) That the cost to the State for care for residents of residential treatment
36 facilities is substantial, and high vacancy rates in residential treatment
37 facilities further increase the cost of care;
- 38 (3) That the proliferation of residential treatment facilities results in costly
39 duplication and underuse of facilities and may result in lower quality
40 service;
- 41 (4) There is currently no ongoing relationship between some applicants for
42 licensure and local management entities (LMEs) that are responsible
43 for the placement of children and adults in residential treatment
44 facilities; and
- 45 (5) That it is necessary to protect the general welfare and lives, health, and
46 property of the people of the State for the local management entity
47 (LME) to verify that additional beds are needed in the LME's
48 catchment area before new residential treatment facilities are licensed.
49 This process is established to ensure that unnecessary costs to the State
50 do not result, residential treatment facility beds are available where
51 needed, and that individuals who need care in residential treatment
52 facilities may have access to quality care.

1 Based on these findings, the Department of Health and Human Services may license
2 new residential treatment facilities if the applicant for licensure submits with the
3 application a letter of support obtained from the local management entity in whose
4 catchment area the facility will be located. The letter of support shall be submitted to the
5 Department of Health and Human Services, Division of Facility Services and Division
6 of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall
7 specify the number of existing beds in the same type of facility in the catchment area
8 and the projected need for additional beds of the same type of facility. As used in this
9 subsection, "residential treatment facility" means a "residential facility" as defined in
10 and licensed under this Chapter, but not subject to Certificate of Need requirements
11 under Article 9 of Chapter 131E of the General Statutes.

12 **SECTION 10.40.(b)** This section applies to license applications pending
13 and license applications submitted on and after the effective date of this act.
14

15 Requested by: Representatives Insko, Barnhart, Clary

16 **REGULATORY CHANGES TO IMPROVE QUALITY AND SAFETY IN**
17 **HOME CARE SERVICES, MENTAL HEALTH FACILITIES, ADULT CARE**
18 **HOMES, AND CERTAIN HOSPITAL FACILITIES**

19 **SECTION 10.40A.(a)** G.S. 131E-140(b) reads as rewritten:

20 **"§ 131E-140. Rules and enforcement.**

21 ...
22 (b) The Department shall enforce the rules adopted or amended by the
23 Commission with respect to home care ~~agencies~~agencies and shall conduct an
24 inspection of each agency at least every three years."

25 **SECTION 10.40A.(b)** G.S. 122C-23(e) reads as rewritten:

26 **"§ 122C-23. Licensure.**

27 ...
28 (e) Unless a license is provisional or has been suspended or revoked, it shall be
29 valid for a period not to exceed two years from the date of issue. The expiration date of
30 a license shall be specified on the license when issued. Renewal of a regular license is
31 contingent upon receipt of information required by the Secretary for renewal and
32 continued compliance with this Article and the rules of the Commission and the
33 Secretary. Licenses for facilities that have not served any clients during the previous 12
34 months are not eligible for renewal."

35 **SECTION 10.40A.(c)** G.S. 122C-25(a) reads as rewritten:

36 **"§ 122C-25. Inspections; confidentiality.**

37 (a) The Secretary shall make or cause to be made inspections that the Secretary
38 considers necessary. Facilities licensed under this Article shall be subject to inspection
39 at all times by the Secretary. All residential facilities as defined in G.S. 122C-3(14)e.
40 shall be inspected on an annual basis. The Division of Facility Services may conduct
41 routine, follow-up, and complaint-generated inspections more frequently as needed to
42 ensure compliance with health and safety requirements.

43 ..."
44 **SECTION 10.40A.(d)** G.S. 122C-25 is amended by adding the following
45 new subsection to read:

46 "(d) All residential facilities, as defined in G.S. 122C-3(14)e. shall ensure that the
47 DHHS Care Line number is posted conspicuously in a public place in the facility."

48 **SECTION 10.40A.(e)** G.S. 131D-2 is amended by adding the following new
49 subsection to read:

50 "(j) Adult care homes shall post the DHHS Care Line number conspicuously in a
51 public place in the facility."

52 **SECTION 10.40A.(f)** G.S. 131D-2(b)(1a) reads as rewritten:

53 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

1
2 ...
3 (b) Licensure; inspections. –

4 ...
5 (1a) The Division of Facility Services shall inspect all adult care homes and
6 adult care units in nursing homes on an annual basis and may conduct
7 routine, follow-up, and complaint-generated inspections more
8 frequently as needed to ensure compliance with health and safety
9 requirements. In addition to the licensing and inspection requirements
10 mandated by subdivision (1) of this subsection, the Department shall
11 ensure that adult care homes required to be licensed by this Article are
12 monitored for licensure compliance on a regular basis. In carrying out
13 this requirement, the Department shall work with county departments
14 of social services to do the routine monitoring and to have the Division
15 of Facility Services oversee this monitoring and perform any follow-up
16 inspection called for. The Department shall monitor regularly the
17 enforcement of rules pertaining to air circulation, ventilation, and room
18 temperature in resident living quarters. These rules shall include the
19 requirement that air conditioning or at least one fan per resident
20 bedroom and living and dining areas be provided when the
21 temperature in the main center corridor exceeds 80 degrees Fahrenheit.
22 The Department shall also keep an up-to-date directory of all persons
23 who are administrators as defined in subdivision (1a) of subsection (a)
24 of this section."

24 **SECTION 10.40A.(g)** G.S. 131D-2(b)(1a) reads as rewritten:

25 "(1a) In addition to the licensing and inspection requirements mandated by
26 subdivision (1) of this subsection, the Department shall ensure that
27 adult care homes required to be licensed by this Article are monitored
28 for licensure compliance on a regular basis. In carrying out this
29 requirement, the Department shall work with county departments of
30 social services to do the routine monitoring and to have the Division of
31 Facility Services oversee this monitoring and perform any follow-up
32 inspection called for. In addition, the Department shall ensure that
33 adult care homes are inspected every two years to determine
34 compliance with physical plant and life-safety requirements. The
35 Department shall monitor regularly the enforcement of rules pertaining
36 to air circulation, ventilation, and room temperature in resident living
37 quarters. These rules shall include the requirement that air
38 conditioning or at least one fan per resident bedroom and living and
39 dining areas be provided when the temperature in the main center
40 corridor exceeds 80 degrees Fahrenheit. The Department shall also
41 keep an up-to-date directory of all persons who are administrators as
42 defined in subdivision (1a) of subsection (a) of this section."

43 **SECTION 10.40A.(h)** G.S. 122C-21 reads as rewritten:

44 "**§ 122C-21. Purpose.**

45 The purpose of this Article is to provide for licensure of facilities for the mentally ill,
46 developmentally disabled, and substance abusers by the development, establishment,
47 and enforcement of basic rules governing:

- 48 (1) The provision of services to individuals who receive services from
49 licensable facilities as defined by this Chapter, and
50 (2) The construction, maintenance, and operation of these licensable
51 facilities that in the light of existing knowledge will ensure safe and
52 adequate treatment of these individuals. The Department shall ensure

1 that licensable facilities are inspected every two years to determine
2 compliance with physical plant and life-safety requirements."

3 **SECTION 10.40A.(i)** G.S. 131E-140 reads as rewritten:

4 **"§ 131E-140. Rules and enforcement.**

5 (a) The Commission ~~is authorized to~~ may adopt, amend and repeal all rules
6 necessary for the implementation of this ~~Part.~~ Part and Part 3A of Article 6 of this
7 Chapter. Provided, these rules shall not extend, modify, or limit the licensing of
8 individual health professionals by their respective licensing boards; nor shall these rules
9 in any way be construed to extend the appropriate scope of practice of any individual
10 health care provider.

11 (a1) The Commission shall adopt rules that recognize the different types of home
12 care services and shall adopt specific requirements for the provision of each type of
13 home care service.

14 (a2) The Commission shall adopt rules defining geographic service areas for
15 in-home aide services and staffing qualifications for licensed home care agencies.

16 (a3) The Commission shall adopt rules prohibiting licensed home care agencies
17 from hiring individuals listed on the Health Care Personnel Registry in accordance with
18 G.S. 131E-256(a)(1).

19 (a4) The Commission shall adopt rules requiring applicants for home care
20 licensure to receive training in the requirements for licensure, the licensure process, and
21 the rules pertaining to the operation of a home care agency.

22 (b) The Department shall enforce the rules adopted or amended by the
23 Commission with respect to home care agencies."

24 **SECTION 10.40A.(j)** G.S. 131E-136 reads as rewritten:

25 **"§ 131E-136. Definitions.**

26 As used in this Part, unless otherwise specified:

27 (1) "Commission" means the North Carolina Medical Care Commission.

28 (1a) "Geographic service area" means the geographic area in which a
29 licensed agency provides home care services.

30 (2) "Home care agency" means a private or public organization that
31 provides home care services.

32 (2a) "Home care agency director" means the person having administrative
33 responsibility for the operation of the licensed agency site.

34 (2b) "Home care client" means an individual who receives home care
35 services.

36 (3) "Home care services" means any of the following services and directly
37 related medical supplies and appliances, which are provided to an
38 individual in a place of temporary or permanent residence used as an
39 individual's home:

40 a. Nursing care provided by or under the supervision of a
41 registered nurse;

42 b. Physical, occupational, or speech therapy, when provided to an
43 individual who also is receiving nursing services, or any other
44 of these therapy services, in a place of temporary or permanent
45 residence used as the individual's home;

46 c. Medical social services;

47 d. In-home aide services that involve hands-on care to an
48 individual;

49 e. Infusion nursing services; and

50 f. Assistance with pulmonary care, pulmonary rehabilitation or
51 ventilation.

52 The term does not include: health promotion, preventative health and
53 community health services provided by public health departments;

1 maternal and child health services provided by public health
 2 departments, by employees of the Department of Health and Human
 3 Services under G.S. 130A-124, or by developmental evaluation centers
 4 under contract with the Department of Health and Human Services to
 5 provide services under G.S. 130A-124; hospitals licensed under
 6 Article 5 of Chapter 131E of the General Statutes when providing
 7 follow-up care initiated to patients within six months after their
 8 discharge from the hospital; facilities and programs operated under the
 9 authority of G.S. 122C and providing services within the scope of
 10 G.S. 122C; schools, when providing services pursuant to Article 9 of
 11 Chapter 115C; the practice of midwifery by a person licensed under
 12 Article 10A of Chapter 90 of the General Statutes; hospices licensed
 13 under Article 10 of Chapter 131E of the General Statutes when
 14 providing care to a hospice patient; an individual who engages solely
 15 in providing his own services to other individuals; incidental health
 16 care provided by an employee of a physician licensed to practice
 17 medicine in North Carolina in the normal course of the physician's
 18 practice; or nursing registries if the registry discloses to a client or the
 19 client's responsible party, before providing any services, that (i) it is
 20 not a licensed home care agency, and (ii) it does not make any
 21 representations or guarantees concerning the training, supervision, or
 22 competence of the personnel provided.

- 23 (4) "Home health agency" means a home care agency which is certified to
 24 receive Medicare and Medicaid reimbursement for providing nursing
 25 care, therapy, medical social services, and home health aide services
 26 on a part-time, intermittent basis as set out in G.S. 131E-176(12), and
 27 is thereby also subject to Article 9 of Chapter 131E."

28 **SECTION 10.40A.(k)** Article 6 of Chapter 131E of the General Statutes is
 29 amended by adding a new Part to read:

30 "Part 3A. Home Care Clients' Bill of Rights.

31 **§ 131E-144.1. Legislative intent.**

32 It is the intent of the General Assembly to support an individual's desire to live at
 33 home and receive home care services.

34 **§ 131E-144.2. Definitions.**

35 Unless otherwise specified, the definitions that are provided in Part 3 of Article 6 of
 36 this Chapter apply in this Part.

37 **§ 131E-144.3. Declaration of home care clients' rights.**

38 Each client of a home care agency shall have the following rights:

- 39 (1) To be informed and participate in his or her plan of care.
 40 (2) To be treated with respect, consideration, dignity, and full recognition
 41 of his or her individuality and right to privacy.
 42 (3) To receive care and services that are adequate, appropriate, and in
 43 compliance with relevant federal and State laws and rules and
 44 regulations.
 45 (4) To voice grievances about care and not be subjected to discrimination
 46 or reprisal for doing so.
 47 (5) To have his or her personal and medical records kept confidential and
 48 not be disclosed without appropriate written consent.
 49 (6) To be free of mental and physical abuse, neglect, and exploitation.
 50 (7) To receive a written statement of services provided by the agency and
 51 the charges the client is liable for paying.
 52 (8) To be informed of the process for acceptance and continuance of
 53 service and eligibility determination.

- 1 (9) To accept or refuse services.
- 2 (10) To be informed of the agency's on-call service.
- 3 (11) To be informed of supervisory accessibility and availability.
- 4 (12) To be advised of the agency's procedures for discharge.
- 5 (13) To receive a reasonable response to his or her requests of the agency.
- 6 (14) To be notified within 10 days when the agency's license has been
7 revoked, suspended, canceled, annulled, withdrawn, recalled, or
8 amended.
- 9 (15) To be advised of the agency's policies regarding patient
10 responsibilities.

11 **"§ 131E-144.4. Notice to client.**

12 (a) During the agency's initial evaluation visit or before furnishing services, a
13 home care agency shall provide each client with the following:

- 14 (1) A copy of the declaration of home care clients' rights.
- 15 (2) A copy of the agency's policies regarding client responsibilities as it
16 relates to safety and care plan compliance.
- 17 (3) The address and telephone number for information, questions, or
18 complaints about services provided by the agency.
- 19 (4) The address and telephone number of the section of the Department of
20 Health and Human Services responsible for the enforcement of the
21 provisions of this Part.

22 (b) Receipts for the declaration of home care clients' rights and contact
23 information required in this section shall be signed by the client and shall be retained in
24 the agency's files.

25 **"§ 131E-144.5. Implementation.**

26 Responsibility for implementing the provisions of this Part shall rest with the home
27 care agency director. Each agency shall provide appropriate training to implement this
28 Part.

29 **"§ 131E-144.6. Enforcement and investigation.**

30 (a) The Department of Health and Human Services shall be responsible for
31 enforcing the provisions of this Part. The Department shall investigate complaints made
32 to it and reply within a reasonable period of time, not to exceed 60 days.

33 (a1) When the Department of Health and Human Services receives a complaint
34 alleging a violation of the provisions of this Part pertaining to client care or client
35 safety, the Department shall initiate an investigation as follows:

- 36 (1) Immediately upon receipt of the complaint if the complaint alleges a
37 life-threatening situation.
- 38 (2) Within 24 hours if the complaint alleges abuse of a client as defined by
39 G.S. 131D-20(1).
- 40 (3) Within 48 hours if the complaint alleges neglect of a client as defined
41 by G.S. 131D-20(8).
- 42 (4) Within two weeks in all other situations.

43 The investigation shall be completed within 30 days. The requirements of this
44 section are in addition to and not in lieu of any investigatory and reporting requirements
45 for health care personnel pursuant to Article 15 of this Chapter, or for adult protective
46 services pursuant to Article 6 of Chapter 108A of the General Statutes.

47 (b) A home care agency shall investigate, within 72 hours, complaints made to
48 the agency by a home care client or the client's family and must document both the
49 existence of the complaint and the resolution of the complaint.

50 **"§ 131E-144.7. Confidentiality.**

51 (a) The Department of Health and Human Services may to inspect home care
52 clients' medical records maintained at the agency when necessary to investigate any
53 alleged violation of this Part.

1 (b) The Department shall maintain the confidentiality of all persons who register
2 complaints with the Department and of all medical records inspected by the
3 Department. A person who has filed a complaint shall have access to information about
4 a complaint investigation involving a specific home care client if written authorization
5 is obtained from the client or legal representative."

6 **SECTION 10.40A.(l)** G.S. 131E-140 is amended by adding the following
7 new subsection to read:

8 "(a1) The Commission shall adopt rules defining the scope of permissible
9 advertising and promotional practice by home care agencies."

10 **SECTION 10.40A.(m)** The Department of Health and Human Services shall
11 study whether there are any additional "health care facilities" and "health care
12 personnel" that are employed in health care settings, including unlicensed health care
13 settings, that should be contained in the Health Care Personnel Registry and listed in
14 G.S. 131E-256. The Department shall report its findings and recommendations to the
15 North Carolina Study Commission on Aging by December 1, 2005.

16 **SECTION 10.40A.(n)** Not later than March 1, 2006, the Department of
17 Health and Human Services shall report to the House of Representatives Appropriations
18 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
19 Health and Human Services, and the Fiscal Research Division on the number of calls
20 received by the DHHS Care Line that had to be referred to the Division of Facility
21 Services complaint hotline.

22 **SECTION 10.40A.(o)** Subsection (i) of this section becomes effective
23 January 1, 2006. Subsections (c) and (d) of this section become effective July 1, 2007,
24 except that the Division may conduct inspections more frequently than annually prior to
25 July 1, 2007, as funds and personnel permit. The remainder of this section becomes
26 effective July 1, 2005.

27
28 Requested by: Representative Earle

29 **VALIDATE CERTAIN CERTIFICATES OF NEED**

30 **SECTION 10.40B.** Notwithstanding the requirements of Chapter 150B and
31 Article 9 of Chapter 131E of the General Statutes, and notwithstanding any past
32 compliance or failure to comply with those requirements, a certificate of need issued by
33 the Department of Health and Human Services for the development of a health care
34 facility that has been completed and licensed prior to the effective date of this act is
35 hereby validated.

36
37 Requested by: Representatives Insko, Barnhart

38 **USE OF UNLICENSED HEALTH CARE PERSONNEL TO PERFORM**
39 **TECHNICAL ASPECTS OF MEDICATION ADMINISTRATION IN NURSING**
40 **HOMES**

41 **SECTION 10.40C.(a)** Article 6 of Chapter 131E of the General Statutes is
42 amended by adding the following new section to read:

43 **"§ 131E-114.2. Use of unlicensed health care personnel to perform technical**
44 **aspects of medication administration.**

45 (a) Facilities licensed and medication administration services provided under this
46 Part may utilize unlicensed health care personnel to perform the technical aspects of
47 medication administration consistent with G.S. 90-171.20(7) and (8), and
48 G.S. 90-171.43.

49 (b) The Commission shall adopt rules to implement this section. Rules adopted
50 by the Commission shall include:

51 (1) Training and competency evaluation of medication aides as provided
52 for under this section.

1 (2) Requirements for listing under the Medication Aide Registry as
2 provided for under G.S. 131E-271.

3 (3) Requirements for supervision of medication aides by licensed health
4 professionals or appropriately qualified supervisory personnel
5 consistent with this Part."

6 **SECTION 10.40C.(b)** Article 9C of Chapter 90 of the General Statutes is
7 amended by adding the following new section to read:

8 **"§ 90-171.56. Medication aide requirements.**

9 The Board of Nursing shall do the following:

10 (1) Establish standards for faculty requirements for medication aide
11 training; and

12 (2) Provide ongoing review and evaluation, and recommend changes, for
13 faculty and medication aide training requirements to support safe
14 medication administration and improve client, resident, and patient
15 outcomes."

16 **SECTION 10.40C.(c)** Article 16 of Chapter 131E of the General Statutes is
17 amended by adding the following new section to read:

18 **"§ 131E-270. Medication Aide Registry.**

19 (a) The Department shall establish and maintain a Medication Aide Registry
20 containing the names of all health care personnel in North Carolina who have
21 successfully completed a medication aide training program that has been approved by
22 the North Carolina Board of Nursing and successfully passed a State-administered
23 medication aide competency exam."

24 **SECTION 10.40C.(d)** This section becomes effective October 1, 2005. The
25 North Carolina Board of Nursing and the Department of Health and Human Services
26 shall report on the implementation of this act to the House of Representatives
27 Appropriations Subcommittee on Health and Human Services, the Senate
28 Appropriations Committee on Health and Human Services, and the Fiscal Research
29 Division not later than March 1, 2006, and annually thereafter.

30
31 Requested by: Representative Wright

32 **DHHS AND COMMUNITY COLLEGES STUDY USE OF MEDICATION**
33 **AIDES TO PERFORM TECHNICAL ASPECTS OF MEDICATION**
34 **ADMINISTRATION**

35 **SECTION 10.40D.(a)** The Secretary of Health and Human Services and the
36 President of the Community Colleges System shall jointly convene a study group to
37 review and consider the use of medication aides to perform the technical aspects of
38 medication administration. The study group shall consist of members representing at
39 least the following entities and licensed health care facilities and providers:

40 (1) Appointed by the Secretary of Health and Human Services:

41 a. Adult care homes.

42 b. Home care agencies.

43 c. Ambulatory surgical centers.

44 d. Hospitals.

45 e. Facilities providing mental health, developmental disabilities,
46 and substance abuse services.

47 f. Nursing homes.

48 g. The nursing profession, as recommended by the Board of
49 Nursing.

50 (2) Community colleges appointed by the President of the Community
51 Colleges System.

52 (3) The Secretary of the Department of Correction.

- 1 (4) Others as may be appointed by the Secretary of Health and Human
2 Services or the President of the Community Colleges System.

3 **SECTION 10.40D.(b)** The study group shall address at least the following
4 in its study and its recommendations regarding medication aide performance of the
5 technical aspects of medication administration:

- 6 (1) Training and competency evaluation of medication aides;
7 (2) Training standards;
8 (3) Ongoing review and evaluation of medication aide training; and
9 (4) Requirements for supervision of medication aides.

10 **SECTION 10.40D.(c)** The Secretary of Health and Human Services and the
11 President of the Community Colleges System shall report the progress and
12 recommendations of the study group to the 2006 Regular Session of the 2005 General
13 Assembly upon its convening, and the 2007 General Assembly upon its convening.
14 Recommendations to the 2006 Regular Session of the 2005 General Assembly may
15 include proposed legislation. A copy of the report shall be provided to the House of
16 Representatives Appropriations Subcommittee on Health and Human Services, the
17 Senate Appropriations Committee on Health and Human Services, and the Fiscal
18 Research Division at the same time as the report is submitted to the General Assembly.

19 **SECTION 10.40D.(d)** The Department of Health and Human Services shall
20 continue its pilot program on the use of medication aides and shall report on the status
21 of the pilot programs at the same time and to the same persons as the study group report
22 to the General Assembly.

23 **SECTION 10.40D.(f)** G.S. 115C-47 is amended by adding the following
24 new subdivision to read:

25 "**§ 115C-47. Powers and duties generally.**

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

- 28 ...
29 (45) At the discretion of the board, to adopt policies and procedures
30 authorizing schools that operate programs under G.S. 115C-307(c) to
31 utilize unlicensed health care personnel to perform the technical
32 aspects of medication administration to students. If adopted, the
33 policies and procedures shall be consistent with the requirements of
34 Article 9A of Chapter 90 of the General Statutes and shall include the
35 following:
36 a. Training and competency evaluation of medication aides as
37 provided for under G.S. 131E-270.
38 b. Requirements for listing under the Medication Aide Registry as
39 provided for under G.S. 131E-271.
40 c. Requirements for supervision of medication aides by licensed
41 health professionals or appropriately qualified supervisory
42 personnel consistent with Articles 5, 6, 10, and 16 of Chapter
43 131E of the General Statutes."
44

45 Requested by: Representatives Insko, Barnhart

46 **SOCIAL SERVICES COMMISSION TECHNICAL CORRECTION**

47 **SECTION 10.42.** G.S. 108A-14(a)(8) reads as rewritten:

48 "**§ 108A-14. Duties and responsibilities.**

49 (a) The director of social services shall have the following duties and
50 responsibilities:

- 51 ...
52 (8) To supervise adult care homes under the rules and regulations of the
53 ~~Social Services~~ Medical Care Commission;

1 "

2
3 Requested by: Representatives Insko, Barnhart

4 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

5 **SECTION 10.43.(a)** The Department of Health and Human Services shall
6 develop and implement performance standards for each of the State and county child
7 support enforcement offices across the State. To develop these performance standards,
8 the Department of Health and Human Services shall evaluate other private and public
9 child support models and national standards as well as other successful collections
10 models. These performance standards shall include the following:

- 11 (1) Cost per collections.
- 12 (2) Consumer satisfaction.
- 13 (3) Paternity establishments.
- 14 (4) Administrative costs.
- 15 (5) Orders established.
- 16 (6) Collections on arrearages.
- 17 (7) Location of absent parents.
- 18 (8) Other related performance measures.

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

25 **SECTION 10.43.(b)** The Department of Health and Human Services shall
26 report on its progress, in compliance with this section, to the Senate Appropriations
27 Committee on Health and Human Services, the House of Representatives
28 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
29 Division by May 1, 2006.

30
31 Requested by: Representatives Insko, Barnhart

32 **MULTIPLE RESPONSE SYSTEM**

33 **SECTION 10.45.(a)** The Department of Health and Human Services,
34 Division of Social Services, shall continue working with local departments of social
35 services to implement a multiple response system of child protection. Local departments
36 of social services shall continue systems already in place. The multiple response system
37 shall provide a family-centered approach to child protective services in which local
38 departments of social services use family assessment tools and family support principles
39 when responding to selected reports of suspected child abuse, neglect, and dependency,
40 including establishing a system of care with child and family teams.

41 **SECTION 10.45.(b)** The Department of Health and Human Services shall
42 expand this project using both State appropriations and any non-State funding sources
43 that can be identified for this purpose. Funds appropriated in this act to the Department
44 for this purpose may be allocated to counties for multiple response system
45 implementation, and counties may use these funds and other resources available for this
46 purpose.

47
48 Requested by: Representatives Insko, Barnhart

49 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

50 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
51 care assistance program are established on a graduated scale as follows:

- 52 (1) \$390.00 per child per month for children aged birth through 5;
- 53 (2) \$440.00 per child per month for children aged 6 through 12; and

1 (3) \$490.00 per child per month for children aged 13 through 18.
2 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the
3 child.

4 **SECTION 10.46.(b)** The maximum rates for State participation in the
5 adoption assistance program are established on a graduated scale as follows:

- 6 (1) \$390.00 per child per month for children aged birth through 5;
7 (2) \$440.00 per child per month for children aged 6 through 12; and
8 (3) \$490.00 per child per month for children aged 13 through 18.

9 **SECTION 10.46.(c)** In addition to providing board payments to foster and
10 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
11 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
12 for this purpose shall be used to provide medical training in avoiding HIV transmission
13 in the home.

14 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
15 foster care and adoption assistance are established on a graduated scale as follows:

- 16 (1) \$800.00 per child per month with indeterminate HIV status;
17 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
18 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
19 (4) \$1,600 per child per month terminally ill with complex care needs.
20

21 Requested by: Representatives Insko, Barnhart

22 **CHILD CARING INSTITUTIONS**

23 **SECTION 10.47.(a)** The Office of the State Auditor shall conduct an audit
24 to evaluate overhead rates and reimbursements for child caring institutions receiving
25 State funding. Of the funds appropriated to the Department of Health and Human
26 Services, Office of the Controller, the sum of one hundred fifty thousand dollars
27 (\$150,000) shall be transferred to the State Auditor to conduct the audit. The audit shall
28 include the following:

- 29 (1) A detailed evaluation of each child caring institution's cost allocation
30 processes.
31 (2) A determination of whether the allocated costs are consistent in
32 different agencies.
33 (3) A determination of the basis used for cost allocation by each agency.
34 (4) The methodology used to assign direct and indirect costs to specific
35 child caring institution programs.
36 (5) A determination of whether the overhead charged is reasonable for that
37 specific type of nonprofit, based on national surveys.
38 (6) A determination of how agency utilization rates impact the child
39 caring institutions' cost allocation and subsequent State
40 reimbursements.
41 (7) An examination of rate-setting methodologies used by other states and
42 how North Carolina's payment to child caring institutions compare to
43 other states.
44 (8) Recommendations on how to develop equitable, reasonable rates.
45 (9) An examination of the feasibility of providing child caring institutions
46 with the opportunity to compete based on providing the best service at
47 least cost.

48 The Office of the State Auditor shall report to the Senate Appropriations
49 Committee on Health and Human Services, the House of Representatives
50 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
51 Division no later than March 1, 2006. The written report shall include copies of working
52 papers developed during the course of the audit.

1 **SECTION 10.47.(b)** The Department of Health and Human Services shall
2 establish standardized rates for child caring institutions in this State. These rates shall be
3 effective January 1, 2006, and shall be updated annually on July 1. Rate-setting
4 recommendations provided by the Office of the State Auditor shall be incorporated into
5 the Department of Social Services rate-setting methodology.

6 **SECTION 10.47.(c)** Until standardized rates are set, child caring
7 institutions' maximum reimbursement shall not exceed the rate established for the
8 specific child caring institution by the Department of Health and Human Services Office
9 of the Controller. In determining the maximum reimbursement, counties shall include
10 county and IV-E reimbursements.

11 **SECTION 10.47.(d)** Minimum reimbursement for foster parents providing
12 services through child caring institutions shall not be lower than the rates established by
13 the General Assembly.
14

15 Requested by: Representatives Insko, Barnhart

16 **SPECIAL CHILDREN ADOPTION FUND**

17 **SECTION 10.48.(a)** Of the funds appropriated to the Department of Health
18 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)
19 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal
20 year. The Division of Social Services, in consultation with the North Carolina
21 Association of County Directors of Social Services and representatives of licensed
22 private adoption agencies, shall develop guidelines for the awarding of funds to licensed
23 public and private adoption agencies upon the adoption of children described in
24 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption
25 Fund by participating agencies shall be used exclusively to enhance the adoption
26 services. No local match shall be required as a condition for receipt of these funds. In
27 accordance with State rules for allowable costs, the Special Children Adoption Fund
28 may be used for post-adoption services for families whose income exceeds two hundred
29 percent (200%) of the federal poverty level.

30 **SECTION 10.48.(b)** Of the total funds appropriated for the Special Children
31 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
32 reserved for payment to participating private adoption agencies. If the funds reserved in
33 this subsection for payments to private agencies have not been spent on or before March
34 31, 2006, the Division of Social Services may reallocate those funds, in accordance with
35 this section, to other participating adoption agencies.

36 **SECTION 10.48.(c)** The Division of Social Services shall monitor the total
37 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
38 ensure that the funds are used according to the guidelines established in subsection (a)
39 of this section. The Division shall implement strategies to ensure that funds that have
40 historically reverted for this program are used for the intended purpose. The Division
41 shall report to the House of Representatives Appropriations Subcommittee on Health
42 and Human Services, the Senate Appropriations Committee on Health and Human
43 Services, and the Fiscal Research Division on the expenditures and activities of the
44 program no later than December 1, 2005, and June 30, 2006.
45

46 Requested by: Representatives Insko, Barnhart

47 **STUDY TO IDENTIFY ADOPTION INCENTIVES FOR CHILDREN WHO**
48 **ARE DIFFICULT TO PLACE**

49 **SECTION 10.49.** The Department of Health and Human Services shall
50 conduct a study to identify potential incentives for adoption of children who are difficult
51 to place and the associated costs for each incentive. The study shall identify incentives
52 currently in place in individual counties and the associated costs. The study shall
53 identify funding sources available to support each incentive. The Department shall

1 report the results of its study to the Senate Appropriations Committee on Health and
2 Human Services, the House of Representatives Appropriations Subcommittee on Health
3 and Human Services, and the Fiscal Research Division no later than October 1, 2005.

4
5 Requested by: Representatives Insko, Barnhart

6 **LIMITATION ON STATE ABORTION FUND**

7 **SECTION 10.50.** The limitations on funding of the performance of abortion
8 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
9 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2005-2006 and
10 2006-2007 fiscal years.

11
12 Requested by: Representatives Insko, Barnhart

13 **TANF BENEFIT IMPLEMENTATION**

14 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
15 Carolina Temporary Assistance for Needy Families State Plan FY 2005-2007", prepared
16 by the Department of Health and Human Services and presented to the General
17 Assembly as revised in accordance with subsection (b) of this section, except that the
18 provision contained in the approved North Carolina Temporary Assistance for Needy
19 Families State Plan FY 2005-2007 eliminating pay-after-performance as a benefit
20 delivery method for two-parent families will only be implemented if the federal
21 two-parent work participation rate is eliminated. The North Carolina Temporary
22 Assistance for Needy Families State Plan covers the period October 1, 2005, through
23 September 30, 2007. The Department shall submit the State Plan, as revised in
24 accordance with subsection (b) of this section, to the United States Department of
25 Health and Human Services, as amended by this act or any other act of the 2005
26 General Assembly.

27 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
28 Carolina's Temporary Assistance for Needy Families State Plan FY 2005-2007 as
29 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,
30 Macon, McDowell, Sampson, and Stokes.

31 **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as
32 an Electing County or to be redesignated as an Electing County and the accompanying
33 county plan for fiscal years 2005 through 2007, pursuant to G.S. 108A-27(e), shall
34 operate under the Electing County budget requirements effective July 1, 2005. For
35 programmatic purposes, all counties referred to in this subsection shall remain under
36 their current county designation through September 30, 2005.

37
38 Requested by: Representatives Insko, Barnhart

39 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**
40 **PERFORMANCE ENHANCEMENTS**

41 **SECTION 10.51A.(a)** Notwithstanding the provisions of G.S. 143B-150.6,
42 the Intensive Family Preservation Services (IFPS) Program shall provide intensive
43 services to children and families in cases of abuse, neglect, and dependency where a
44 child is at imminent risk of removal from the home and to children and families in cases
45 of abuse where a child is not at imminent risk of removal. The Program shall be
46 developed and implemented statewide on a regional basis. The IFPS shall ensure the
47 application of standardized assessment criteria for determining imminent risk and clear
48 criteria for determining out-of-home placement.

49 **SECTION 10.51A.(b)** The Department of Health and Human Services shall
50 require that any program or entity that receives State, federal, or other funding for the
51 purpose of Intensive Family Preservation Services shall provide information and data
52 that allows for:

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

14 **SECTION 10.51A.(c)** The Department shall establish performance-based
15 funding protocol and shall only provide funding to those programs and entities
16 providing the required information specified in subsection (b) of this section. The
17 amount of funding shall be based on the individual performance of each program.

18 **SECTION 10.51A.(d)** The Department shall report on the implementation
19 of this section not later than February 1, 2006, to the House of Representatives
20 Appropriations Subcommittee on Health and Human Services, the Senate
21 Appropriations Committee on Health and Human Services, and the Fiscal Research
22 Division.

23
24 Requested by: Representatives Insko, Barnhart

25 **RESIDENTIAL SCHOOLS REPORTING**

26 **SECTION 10.52.** The Office of Education Services shall report not later
27 than December 1, 2005, to the Senate Appropriations Committee on Health and Human
28 Services, the House of Representatives Appropriations Subcommittee on Health and
29 Human Services, and the Fiscal Research Division on the activities of the Eastern North
30 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at
31 Morganton, and the Governor Morehead School for the Blind. The report shall include
32 enrollment numbers at the schools, the budgets, and the academic status of the schools
33 as defined under the ABCs program.

34
35 Requested by: Representatives Insko, Barnhart

36 **FUNDS FOR SCHOOL NURSES**

37 **SECTION 10.53.** Of the funds appropriated in this act to the Department of
38 Health and Human Services, the sum of one million five hundred thousand dollars
39 (\$1,500,000) for the 2005-2006 fiscal year and the sum of one million five hundred
40 thousand dollars (\$1,500,000) for the 2006-2007 fiscal year shall be used for the school
41 nurse funding initiative. The Department of Health and Human Services, Division of
42 Public Health, in conjunction with the Department of Public Instruction, shall provide
43 funds to communities to hire school nurses. The program will fund 30 permanent local
44 nurses. The criteria shall include determining the areas in greatest need for school
45 nurses with the greatest inability to pay for these nurses. Other criteria to be considered
46 shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the
47 community; and (iii) the health needs of area children. The Department of Health and
48 Human Services and the Department of Public Instruction shall review the
49 responsibilities of school nurses and consider substituting licensed practical nurses for
50 registered nurses, as licensure and certification requirements permit, as a way to fund
51 additional nurses beyond the 30 nurses funded under this section.

52 There shall be no supplanting of local, State, or federal funds with these
53 funds. Communities shall maintain their current level of effort and funding for school

1 nurses. These funds shall not be used for funding nurses for State agencies. All funding
2 shall be used for direct services.

3 The Department of Health and Human Services shall report on the use of
4 funds allocated under this section by December 1, 2005, to the Senate Appropriations
5 Committee on Health and Human Services, the House of Representatives
6 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
7 Division.

8
9 Requested by: Representatives Insko, Barnhart

10 **EARLY INTERVENTION REPORTING AND EVALUATION**

11 **SECTION 10.54.(a)** The Department of Health and Human Services,
12 Division of Public Health, shall report on Early Intervention services. The report shall
13 include the number of children served, the number and types of services and evaluations
14 provided, and the budget for each Children's Developmental Services Agency. In
15 addition, the Division of Public Health shall evaluate its Early Intervention Program
16 provider network, including provider certification and continuing education
17 requirements.

18 **SECTION 10.54.(b)** The Department of Health and Human Services shall
19 analyze the reimbursement rates for Early Intervention services, and may adjust rates
20 according to the findings of the analysis.

21 **SECTION 10.54.(c)** The Division of Public Health shall analyze the
22 program funding for the Children with Special Needs Program and shall develop a plan
23 to utilize these funds within the Early Intervention Program. The Division shall report
24 its findings and recommendations to the Senate Appropriations Committee on Health
25 and Human Services, the House of Representatives Appropriations Subcommittee on
26 Health and Human Services, and the Fiscal Research Division not later than December
27 1, 2005.

28
29 Requested by: Representatives Insko, Barnhart

30 **EARLY INTERVENTION PROGRAM RULES ADOPTED BY COMMISSION**
31 **FOR HEALTH SERVICES**

32 **SECTION 10.54A.** Part 1 of Article 5 of Chapter 130A of the General
33 Statutes is amended by adding the following new section to read:

34 "**§ 130A-126. Rule-making authority for birth – three-year-old early intervention**
35 **program.**

36 **The rule-making authority for the birth – three-year-old early intervention program**
37 **through Part C of the Individuals with Disabilities Act (IDEA) is transferred from the**
38 **Commission for Mental Health, Developmental Disabilities, and Substance Abuse**
39 **Services to the Commission for Health Services.**"

40
41 Requested by: Representatives Insko, Barnhart

42 **CHILDREN'S DEVELOPMENTAL SERVICES AGENCY OF THE SMOKIES**

43 **SECTION 10.54B.** Western Carolina University shall continue to operate
44 the Children's Developmental Services Agency of the Smokies.

45
46 Requested by: Representatives Insko, Barnhart

47 **CHRONIC DISEASE PREVENTION ACTIVITIES INVENTORY**

48 **SECTION 10.56.** In order to reduce costs and eliminate duplication of
49 effort, the Department of Health and Human Services shall create an inventory of all
50 chronic disease prevention activities, funding, staffing, and other resources for these
51 activities, including funding and resources for related task forces and committees. The
52 inventory shall include at a minimum, heart disease, stroke, diabetes, osteoporosis, and
53 cancer. The Department shall create a plan to combine task forces and activities for

1 chronic disease prevention and shall explore collapsing these task forces and
2 committees into the Healthy Carolinians structure. The Department shall report on the
3 inventory and the Department's recommendations not later than February 1, 2006, to the
4 Senate Appropriations Committee on Health and Human Services, the House of
5 Representatives Appropriations Subcommittee on Health and Human Services, and the
6 Fiscal Research Division.

7
8 Requested by: Representatives Insko, Barnhart

9 **PILOT PROGRAM FOR AUTOMATIC EXTERNAL DEFIBRILLATORS IN**
10 **PUBLIC BUILDINGS**

11 **SECTION 10.57.(a)** The Department of Health and Human Services,
12 Division of Public Health, shall develop a pilot program to place Automated External
13 Defibrillators (AED) in public buildings, including public gymnasiums, that do not have
14 an operational AED in place. In selecting pilot sites, the Department shall ensure
15 geographic representation of the State.

16 **SECTION 10.57.(b)** Of the funds appropriated in this act to the Department
17 of Health and Human Services, the sum of seventeen thousand dollars (\$17,000) for the
18 2005-2006 fiscal year, and the sum of six thousand dollars (\$6,000) for the 2006-2007
19 fiscal year shall be used to purchase AED units, conduct on-site training at the pilot
20 sites, and conduct ongoing education and awareness campaigns to the general public in
21 the piloted sites. The Department shall ensure that training in the use of an AED shall be
22 conducted in accordance with G.S. 90-21.15(b)(3). The Heart Disease and Stroke
23 Prevention Branch of the Division of Public Health shall be responsible for the purchase
24 of AEDs, the training of pilot program participants, and evaluation of the pilot program.

25 **SECTION 10.57.(c)** The Department of Health and Human Services shall
26 report on the location, establishment, and implementation of the pilot sites to the Senate
27 Appropriations Committee on Health and Human Services, the House of
28 Representatives Appropriations Subcommittee on Health and Human Services, and the
29 Fiscal Research Division on or before March 1, 2006.

30
31 Requested by: Representatives Insko, Barnhart

32 **IMMUNIZATION PROGRAM FUNDING**

33 **SECTION 10.58.(a)** Of the funds appropriated in this act to the Department
34 of Health and Human Services for childhood immunization programs for positions,
35 operating support, equipment, and pharmaceuticals, the sum of one million dollars
36 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
37 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that
38 are also designed to increase childhood immunization rates in North Carolina. These
39 projects and activities shall include the following:

- 40 (1) Outreach efforts at the State and local levels to improve service
41 delivery of vaccines. Outreach efforts may include educational
42 seminars, media advertising, support services to parents to enable
43 children to be transported to clinics, longer operating hours for clinics,
44 and mobile vaccine units.

- 45 (2) Continued development of an automated immunization registry.

46 **SECTION 10.58.(b)** Funds authorized to be used for immunization efforts
47 under subsection (a) of this section shall not be used to fund additional State positions in
48 the Department of Health and Human Services or contracts, except for contracts to
49 develop an automated immunization registry or contracts with local health departments
50 for outreach.

51
52 Requested by: Representatives Insko, Barnhart

53 **AIDS DRUG ASSISTANCE PROGRAM**

1 **SECTION 10.59.(a)** For the 2005-2006 fiscal year and for the 2006-2007
2 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five
3 percent (125%) of the federal poverty level are eligible for participation in ADAP.
4 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
5 extended to individuals with incomes above one hundred twenty-five percent (125%) of
6 the federal poverty level.

7 **SECTION 10.59.(b)** The Department of Health and Human Services shall
8 make an interim report on ADAP program utilization by January 1, 2006, and a final
9 report on ADAP program utilization by May 1, 2006, to the Senate Appropriations
10 Committee on Health and Human Services, the House of Representatives
11 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
12 Division on ADAP. The reports shall include ADAP program utilization as follows:

- 13 (1) Monthly data on total cumulative AIDS/HIV cases reported in North
14 Carolina.
- 15 (2) Monthly data on the number of individuals who have applied to
16 participate in ADAP that have been determined to be ineligible.
- 17 (3) Monthly data on the income level of participants in ADAP and of
18 individuals who have applied to participate in ADAP who have been
19 determined to be ineligible.
- 20 (4) Monthly data on fiscal year-to-date expenditures of ADAP. The
21 interim report shall contain monthly data on the calendar year-to-date
22 expenditures of ADAP.
- 23 (5) An update on the status of the information management system.
- 24 (6) Monthly data on ADAP usage patterns and demographics of
25 participants in ADAP.
- 26 (7) Fiscal year-to-date budget information.
- 27 (8) The status of the new system of management for ADAP, the costs
28 savings realized from the new system, and recommendations for
29 improving the system.
- 30

31 Requested by: Representatives Insko, Barnhart

32 **HEALTH INFORMATION SYSTEMS DEVELOPMENT FUNDS**

33 **SECTION 10.59A.(a)** The sum of four million sixty-five thousand four
34 hundred sixty-nine dollars (\$4,065,469) is appropriated from Budget Code 24430, Fund
35 Code 2117, to the Department of Health and Human Services, Division of Public
36 Health, for the 2005-2006 fiscal year. These funds shall be used for the development
37 and implementation of the Health Information Systems (HIS), an initiative that will
38 provide an automated means of capturing, monitoring, reporting, and billing services
39 provided in local health departments, CDSAs, and the State Public Health Lab. The
40 HIS will allow for interfaces to local health departments' own vendor systems and is
41 intended to replace the outdated Health Services Information System.

42 **SECTION 10.59A.(b)** The Department of Health and Human Services,
43 Division of Public Health, shall report on the use of these funds to the House of
44 Representatives Appropriations Subcommittee on Health and Human Services, the
45 Senate Appropriations Committee on Health and Human Services, and the Fiscal
46 Research Division not later than March 1, 2006.

47
48 Requested by: Representatives Insko, Barnhart

49 **FUNDS FOR PILOT PROGRAM TO RECRUIT MINORITY STUDENTS INTO** 50 **PHARMACY SCHOOLS**

51 **SECTION 10.59B.** Of the funds appropriated in this act to the Department
52 of Health and Human Services, Division of Public Health, the sum of three hundred
53 thousand dollars (\$300,000) for the 2005-2006 fiscal year shall be used to develop a

1 pilot program for the recruitment of minority students into pharmacy schools. The pilot
2 program shall include all pharmacy schools willing to participate as well as community
3 colleges with equipment and incentives for students that might be pharmacy school
4 candidates. The Department shall report on the progress of the pilot program to the
5 House of Representatives Appropriations Subcommittee on Health and Human
6 Services, the Senate Appropriations Committee on Health and Human Services, and the
7 Fiscal Research Division not later than March 1, 2006.

8
9 Requested by: Representatives Insko, Barnhart

10 **HEALTH-RELATED INITIATIVES FUNDS**

11 **SECTION 10.59C.** The sum of sixty-eight million dollars (\$68,000,000) is
12 appropriated from Budget Code 23460, Fund Code 2120, to the Health and Wellness
13 Trust Fund for the 2005-2006 fiscal year for the purpose of health-related initiatives as
14 approved by the Health and Wellness Trust Fund Commission, other projects allowed
15 by G.S. 147-86.30, and line items allowed under G.S. 143-23.

16
17 Requested by: Representative Insko

18 **PUBLIC HEALTH INCUBATORS**

19 **SECTION 10.59D.** Of the funds appropriated in this act to the Department
20 of Health and Human Services, Division of Public Health, the sum of one million
21 dollars (\$1,000,000) shall be used to fund new public health incubators. These funds
22 shall be administered by the Division of Public Health through contracts. Not more
23 than eight percent (8%) of the funds authorized under this section may be used for
24 program support and administration. Not later than December 1, 2005, the Division of
25 Public Health shall report on the specific use of these funds. The report shall be
26 submitted to the House of Representatives Appropriations Subcommittee on Health and
27 Human Services, the Senate Appropriations Committee on Health and Human Services,
28 and the Fiscal Research Division.

29
30 Requested by: Representative Wright

31 **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES**
32 **INITIATIVE**

33 **SECTION 10.59E.** Of funds appropriated in this act to the Department of
34 Health and Human Services for the 2005-2006 fiscal year, the sum of five million
35 dollars (\$5,000,000) shall be allocated for the Community-Focused Eliminating Health
36 Disparities Initiative (CFEHD) to build capacity of faith-based and community-based
37 organizations to close the gap in the health status of African-Americans,
38 Hispanics/Latinos, and American Indians as compared to white persons. The areas of
39 focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted
40 infections, cancer, diabetes, and homicides and motor vehicle deaths. These funds shall
41 also be used to support one FTE in the Department of Health and Human Services to
42 monitor, track, and evaluate grantees' progress in meeting performance-based standards
43 and outcomes established by the Department.

44
45 Requested by: Representative

46 **GOVERNOR'S VISION CARE PROGRAM ESTABLISHED**

47 **SECTION 10.59F.(a)** Program established. – There is established in the
48 Department of Health and Human Services, Division of Public Health, The Governor's
49 Vision Care Program. The purpose of the Program is to provide funds for early
50 detection and correction of vision problems in children enrolled in grades K through 3
51 who are eligible for services under the Program. These funds shall be allocated to
52 reimburse optometrists and ophthalmologists licensed to practice in this State for the

1 comprehensive eye examination, including necessary spectacles, provided to meet the
2 requirements of G.S. 130A-440.1.

3 **SECTION 10.59F.(b)** Eligibility. – Children eligible for services under this
4 section shall be those with a family income not exceeding two hundred fifty percent
5 (250%) of the federal poverty level, who do not have private health insurance coverage,
6 and are not eligible for services under NC Health Choice, Medicaid, the Department of
7 Health and Human Services' Commission for the Blind programs, VSP's Sight for
8 Students, or the Lions Club Foundation.

9 **SECTION 10.59F.(c)** For the purposes of this section, "comprehensive eye
10 examination" means a complete and thorough examination of the eye and human visual
11 system that includes an evaluation, determination, and diagnosis of:

- 12 (1) Visual acuity at distance and near;
- 13 (2) Alignment and ocular motility;
- 14 (3) Binocular fusion abnormalities including tracking;
- 15 (4) Actual refractive errors, including verification by subject means;
- 16 (5) Any color vision disorder;
- 17 (6) Intraocular pressure as may be medically appropriate; and
- 18 (7) Ocular health, including internal and external assessment.

19 Routine screening that does not encompass all of the examination
20 components listed in this subsection does not qualify for reimbursement from the
21 Program.

22 **SECTION 10.59F.(d)** Article 3 of Chapter 143B of the General Statutes is
23 amended by adding the following new Part to read:

24 "Part 34. Governor's Commission on Early Childhood Vision Care.

25 **§ 143B-216.67. Governor's Commission on Early Childhood Vision Care.**

26 (a) There is established the Governor's Commission on Early Childhood Vision
27 Care ("Commission"). The Commission shall be located in the Department of Health
28 and Human Services for administrative and budgetary purposes only.

29 (b) The Commission shall consist of six members appointed as follows:

- 30 (1) Two optometrists and two ophthalmologists, each of whom is licensed
31 to practice in this State, appointed by the Governor;
- 32 (2) One optometrist licensed to practice in this State appointed by the
33 General Assembly upon the recommendation of the Speaker of the
34 House of Representatives; and
- 35 (3) One ophthalmologist licensed to practice in this State appointed by the
36 General Assembly upon the recommendation of the President Pro
37 Tempore of the Senate.

38 The initial members appointed by the General Assembly shall each serve a one-year
39 term. The initial members appointed by the Governor shall each serve a two-year term.
40 Subsequent appointments shall be for three-year terms. Vacancies shall be filled by the
41 original appointing authority.

42 (c) The Commission shall adopt rules to implement and administer the
43 Governor's Vision Care Program established under this section. The rules shall address:

- 44 (1) Accepting and processing of applications by families for Program
45 services.
- 46 (2) Verification of applicant income eligibility.
- 47 (3) Reimbursement to providers for services provided to eligible
48 participants.
- 49 (4) Informing providers and the general public about the Program.
- 50 (5) Other duties necessary to implement the purposes and requirements of
51 this section.

52 (d) Commission members who are officials or employees of the State or local
53 government agencies shall be paid per diem, subsistence, and travel expenses in

1 accordance with G.S. 138-6. All other Commission members shall be paid in
2 accordance with G.S. 138-5.

3 (e) The Governor shall appoint a Chair of the Commission. The Commission
4 shall meet upon the call of the Chair. A majority of the Commission members shall
5 constitute a quorum. The Department of Health and Human Services shall provide
6 meeting space and staff to assist the Commission."

7 **SECTION 10.59F.(e)** Funds appropriated in this act to the Reserve for
8 Governor's Vision Care Program shall be used to reimburse providers for
9 comprehensive eye examination services, including necessary spectacles, required under
10 this section.

11 **SECTION 10.59F.(f)** Not later than May 1, 2006, the Department of Health
12 and Human Services shall report to the House of Representatives Appropriations
13 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
14 Health and Human Services, and the Fiscal Research Division on the implementation of
15 this section.

16 **SECTION 10.59F.(g)** Article 18 of Chapter 130A of the General Statutes is
17 amended by adding the following new section to read:

18 **"§ 130A-440.1. Comprehensive eye examination required.**

19 (a) Every child in this State entering kindergarten in the public schools shall
20 obtain a comprehensive eye examination not more than six months prior to the date of
21 school entry. The comprehensive eye examination shall be conducted by an optometrist
22 or ophthalmologist licensed to practice in this State. No child shall attend kindergarten
23 unless a comprehensive eye examination transmittal form, developed pursuant to
24 G.S. 130A-441, indicating that the child has received the comprehensive eye
25 examination required by this section is presented to the school principal. The
26 comprehensive eye examination shall consist of a complete and thorough examination
27 of the eye and human visual system that includes an evaluation, determination, and
28 diagnosis of:

- 29 (1) Visual acuity at distance and near;
- 30 (2) Alignment and ocular motility;
- 31 (3) Binocular fusion abnormalities including tracking;
- 32 (4) Actual refractive errors, including verification by subject means;
- 33 (5) Any color vision disorder;
- 34 (6) Intraocular pressure as may be medically appropriate; and
- 35 (7) Ocular health, including internal and external assessment.

36 Health assessment vision screening under G.S. 130A-440 does not meet the
37 requirements of this section.

38 (b) The comprehensive eye examination transmittal form shall contain a
39 summary of the comprehensive eye examination performed by the optometrist or
40 ophthalmologist. Any treatment recommendations by the optometrist or
41 ophthalmologist, such as spectacles for schoolwork, shall appear in the summary and
42 school health card.

43 (c) This section shall not apply to children entering kindergarten in private
44 church schools, schools of religious charter, or qualified nonpublic schools regulated by
45 Article 39 of Chapter 115C of the General Statutes.

46 (d) G.S. 130A-441, 130A-442, and 130A-443, pertaining to health assessments,
47 apply to comprehensive eye examinations required under this section."

48
49 Requested by: Representatives Clary, Wright

50 **LRC STUDY SCHOOL-BASED AND SCHOOL-LINKED HEALTH CENTERS**

51 **SECTION 10.59G.(a)** The Legislative Research Commission may study and
52 evaluate the number of school-based and school-linked health centers in providing
53 primary care, mental health, and other health care services to determine the centers'

1 impact on providing health care. In conducting the study, the Commission may consider
2 the following:

- 3 (1) The health centers' role in contributing to the health and well-being of
4 adolescents and in reducing the cost of health care.
- 5 (2) Adequacy of current funding and measures needed to sustain the
6 centers as part of the overall school health strategy to improve the
7 health of adolescents.
- 8 (3) The secured-care rate for students who have access to not only a
9 school nurse but also to a school-based or school-linked health center
10 and whether students receive care in a timely manner from appropriate
11 health care providers.
- 12 (4) Other matters related to the efficacy and efficiency of school-based
13 and school-linked health centers such that care provided enables
14 students to remain in class, be productive and attentive while in class,
15 and have fewer absences from school.

16 To assist in the study, the Commission may consult with such stakeholders as the North
17 Carolina Association of School-Based and School-Linked Health Centers, the North
18 Carolina Pediatric Society, the Adolescent Pregnancy Prevention Coalition of North
19 Carolina, the Department of Health and Human Services, Division of Public Health, and
20 other interested parties.

21 **SECTION 10.59G.(b)** The Legislative Research Commission may make an
22 interim report, including proposed legislation, to the 2006 Regular Session of the 2005
23 General Assembly and shall make its final report to the 2007 General Assembly upon its
24 convening.

25 **SECTION 10.59G.(c)** The Legislative Services Officer shall allocate funds
26 appropriated in this act to the General Assembly for the expenditures of the Legislative
27 Services Commission in conducting this study.

28
29 Requested by: Representatives Insko, Barnhart

30 **CHILD CARE FUNDS MATCHING REQUIREMENT**

31 **SECTION 10.60.** No local matching funds may be required by the
32 Department of Health and Human Services as a condition of any locality's receiving any
33 State child care funds appropriated by this act unless federal law requires a match. This
34 shall not prohibit any locality from spending local funds for child care services.

35
36 Requested by: Representatives Insko, Barnhart

37 **CHILD CARE ALLOCATION FORMULA**

38 **SECTION 10.61.(a)** The Department of Health and Human Services shall
39 allocate child care subsidy voucher funds to pay the costs of necessary child care for
40 minor children of needy families. The mandatory thirty percent (30%) Smart Start
41 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
42 county's child care subsidy allocation. The Department of Health and Human Services
43 shall use the following method when allocating federal and State child care funds, not
44 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

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

51 **SECTION 10.61.(b)** The Department of Health and Human Services may
52 reallocate unused child care subsidy voucher funds in order to meet the child care needs

1 of low-income families. Any reallocation of funds shall be based upon the expenditures
 2 of all child care subsidy voucher funding, including Smart Start funds, within a county.

3 **SECTION 10.61.(c)** Notwithstanding subsection (a) of this section, the
 4 Department of Health and Human Services shall allocate up to twenty-two million
 5 dollars (\$22,000,000) in federal block grant funds and State funds appropriated for
 6 fiscal years 2004-2005 and 2005-2006 for child care services. These funds shall be
 7 allocated to prevent termination of child care services.

8
 9 Requested by: Representatives Insko, Barnhart

10 **CHILD CARE SUBSIDY RATES**

11 **SECTION 10.62.(a)** The maximum gross annual income for initial
 12 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five
 13 percent (75%) of the State median income, adjusted for family size.

14 **SECTION 10.62.(b)** Fees for families who are required to share in the cost
 15 of care shall be established based on a percent of gross family income and adjusted for
 16 family size. Fees shall be determined as follows:

17 FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
18 1-3	10%
19 4-5	9%
20 6 or more	8%.

21 **SECTION 10.62.(c)** Payments for the purchase of child care services for
 22 low-income children shall be in accordance with the following requirements:

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

40 **SECTION 10.62.(d)** Provisions of payment rates for child care providers in
 41 counties that do not have at least 50 children in each age group for center-based and
 42 home-based care are as follows:

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

51 **SECTION 10.62.(e)** A market rate shall be calculated for child care centers
 52 and homes at each rated license level for each county and for each age group or age
 53 category of enrollees and shall be representative of fees charged to unsubsidized

1 privately paying parents for each age group of enrollees within the county. The Division
2 of Child Development and School Readiness shall also calculate a statewide rate and
3 regional market rates for each rated license level for each age category.

4 **SECTION 10.62.(f)** Facilities licensed pursuant to Article 7 of Chapter 110
5 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate
6 in the program that provides for the purchase of care in child care facilities for minor
7 children of needy families. No separate licensing requirements shall be used to select
8 facilities to participate. In addition, child care facilities shall be required to meet any
9 additional applicable requirements of federal law or regulations. Child care
10 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the
11 General Statutes shall meet the requirements established by other State law and by the
12 Social Services Commission.

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

17 **SECTION 10.62.(g)** Payment for subsidized child care services provided
18 with Work First Block Grant funds shall comply with all regulations and policies issued
19 by the Division of Child Development and School Readiness for the subsidized child
20 care program.

21 **SECTION 10.62.(h)** Noncitizen families who reside in this State legally
22 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
23 all other conditions of eligibility are met, noncitizen families who reside in this State
24 illegally shall be eligible for child care subsidies only if at least one of the following
25 conditions is met:

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

32
33 Requested by: Representatives Insko, Barnhart

34 **CHILD CARE REVOLVING LOAN**

35 **SECTION 10.63.** Notwithstanding any law to the contrary, funds budgeted
36 for the Child Care Revolving Loan Fund may be transferred to and invested by the
37 financial institution contracted to operate the Fund. The principal and any income to the
38 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
39 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
40 cost of administering the program.

41
42 Requested by: Representatives Insko, Barnhart

43 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 44 **ENHANCEMENTS**

45 **SECTION 10.64.(a)** Administrative costs shall be equivalent to, on an
46 average statewide basis for all local partnerships, not more than eight percent (8%) of
47 the total statewide allocation to all local partnerships. For purposes of this subsection,
48 administrative costs shall include costs associated with partnership oversight, business
49 and financial management, general accounting, human resources, budgeting,
50 purchasing, contracting, and information systems management.

51 **SECTION 10.64.(b)** The North Carolina Partnership for Children, Inc., and
52 all local partnerships shall use competitive bidding practices in contracting for goods
53 and services on contract amounts as follows:

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

10 **SECTION 10.64.(c)** The North Carolina Partnership for Children, Inc., and
11 all local partnerships shall, in the aggregate, be required to match no less than fifty
12 percent (50%) of the total amount budgeted for the program in each fiscal year of the
13 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and
14 in-kind donated resources equal to no more than five percent (5%) for a total match
15 requirement of twenty percent (20%) for each fiscal year. The North Carolina
16 Partnership for Children, Inc., may carry forward any amount in excess of the required
17 match for a fiscal year in order to meet the match requirement of the succeeding fiscal
18 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind
19 match requirement. Volunteer services may be treated as an in-kind contribution for the
20 purpose of the match requirement of this subsection. Volunteer services that qualify as
21 professional services shall be valued at the fair market value of those services. All other
22 volunteer service hours shall be valued at the statewide average wage rate as calculated
23 from data compiled by the Employment Security Commission in the Employment and
24 Wages in North Carolina Annual Report for the most recent period for which data are
25 available. Expenses, including both those paid by cash and in-kind contributions,
26 incurred by other participating non-State entities contracting with the North Carolina
27 Partnership for Children, Inc., or the local partnerships, also may be considered
28 resources available to meet the required private match. In order to qualify to meet the
29 required private match, the expenses shall:

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

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

1 match requirements shall apply to any expansion funds appropriated by the General
2 Assembly.

3 **SECTION 10.64.(d)** The Department of Health and Human Services shall
4 continue to implement the performance-based evaluation system.

5 **SECTION 10.64.(e)** The Department of Health and Human Services and the
6 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
7 for Early Childhood Education and Development Initiatives for State fiscal years
8 2005-2006 and 2006-2007 shall be administered and distributed in the following
9 manner:

10 (1) Capital expenditures are prohibited for fiscal years 2005-2006 and
11 2006-2007. For the purposes of this section, "capital expenditures"
12 means expenditures for capital improvements as defined in
13 G.S. 143-34.40.

14 (2) Expenditures of State funds for advertising and promotional activities
15 are prohibited for fiscal years 2005-2006 and 2006-2007.

16 **SECTION 10.64.(f)** A county may use the county's allocation of State and
17 federal child care funds to subsidize child care according to the county's Early
18 Childhood Education and Development Initiatives Plan as approved by the North
19 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
20 the appropriate federal regulations. Child care providers shall, at a minimum, comply
21 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110
22 of the General Statutes.

23 **SECTION 10.64.(g)** For fiscal years 2005-2006 and 2006-2007, the local
24 partnerships shall spend an amount for child care subsidies that provides at least
25 fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement
26 and the Child Care Development Fund and Block Grant match requirement.
27

28 Requested by: Representatives Insko, Barnhart

29 **SMART START FUNDING STUDY**

30 **SECTION 10.65.(a)** The North Carolina Partnership for Children, Inc., shall
31 study its allocation of funds to local partnerships. The North Carolina Partnership for
32 Children, Inc., shall study funding equity among all counties and local partnerships
33 based on population, the number of children from birth to five years of age residing in
34 the county region, economic indicators, and the quality of existing child care. The North
35 Carolina Partnership for Children, Inc., shall develop strategies to alleviate the inequity
36 of funds to local partnerships.

37 **SECTION 10.65.(b)** The North Carolina Partnership for Children, Inc., shall
38 report its findings and recommendations to the Senate Appropriations Committee on
39 Health and Human Services, the House of Representatives Appropriations
40 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
41 before March 1, 2006.
42

43 Requested by: Representatives Insko, Barnhart

44 **ANALYZE CHILD CARE SUBSIDY REIMBURSEMENT SYSTEM**

45 **SECTION 10.66.(a)** The Department of Health and Human Services,
46 Division of Child Development and School Readiness, shall conduct an analysis of the
47 child care subsidy reimbursement system. The Division of Child Development and
48 School Readiness shall conduct the analysis as follows:

49 (1) Compare surveyed rates from the 2005 child care market survey to
50 existing reimbursement rates and identify counties and levels of
51 disparity of current market rates to subsidy reimbursements.

- 1 (2) Compare overall compensation for child care workers by county and
2 determine if there is a correlation with child care quality and subsidy
3 reimbursements.
- 4 (3) Examine, by county, the prevalence of child care providers who charge
5 parents a differential fee to make up the difference between private and
6 subsidy reimbursement rates.
- 7 (4) Examine the impact that child care reimbursement rates has on
8 providing families access to all levels of child care.

9 **SECTION 10.66.(b)** The Division of Child Development and School
10 Readiness shall develop strategies to implement market rate equity among counties and
11 submit a report of its findings and recommendations to the Senate Appropriations
12 Committee on Health and Human Services, the House of Representatives
13 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
14 Division by January 30, 2006.

15
16 Requested by: Representatives Insko, Barnhart

17 **MORE AT FOUR**

18 **SECTION 10.67.(a)** Of the funds appropriated in this act to the Department
19 of Health and Human Services, the sum of sixty-six million six hundred forty-six
20 thousand six hundred fifty-three dollars (\$66,646,653) for the 2005-2006 fiscal year and
21 the sum of sixty-six million six hundred forty-six thousand six hundred fifty-three
22 dollars (\$66,646,653) for the 2006-2007 fiscal year shall be used to implement "More
23 At Four", a voluntary prekindergarten program for at-risk four-year-olds.

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

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

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

26 **SECTION 10.67.(c)** The Department of Health and Human Services shall
 27 plan for expansion of the "More At Four" program within existing resources to include
 28 four- and five-star-rated centers and schools serving four-year-olds and develop
 29 guidelines for these programs. The Department shall analyze guidelines for use of the
 30 "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a
 31 complementary plan for administration of funds for all four-year-old classrooms. The
 32 four- and five-star-rated centers that choose to become a "More At Four" program shall,
 33 at a minimum, receive curricula and access to training and workshops for "More At
 34 Four" programs and be considered along with other "More At Four" programs for
 35 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
 36 from more than one source for the same purpose or activity during the same funding
 37 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
 38 and T.E.A.C.H. Health Insurance programs for individual recipients.

39 The "More At Four" program shall review the number of slots filled by
 40 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.
 41 The shifting of slots shall occur through December 30, 2005, at which time any
 42 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for
 43 subsidized child care.

44 **SECTION 10.67.(d)** The Department of Health and Human Services, the
 45 Department of Public Instruction, and the Task Force shall submit a report by February
 46 1, 2006, to the Joint Legislative Commission on Governmental Operations, the Joint
 47 Legislative Education Oversight Committee, the Senate Appropriations Committee on
 48 Health and Human Services, the House of Representatives Appropriations
 49 Subcommittee on Health and Human Services, and the Fiscal Research Division. This
 50 final report shall include the following:

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

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

- 3 (3) The expected expenditures for the programs and the source of the local
4 match for each grantee.
5 (4) The location of program sites and the corresponding number of
6 children participating in the program at each site.
7 (5) Activities involving Child Find in counties.
8 (6) A comprehensive cost analysis of the program, including the cost per
9 child served by the program.
10 (7) The plan for expansion of "More At Four" through existing resources
11 as outlined in this section.

12 **SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the
13 "More At Four" program shall establish income eligibility requirements for the program
14 not to exceed seventy-five percent (75%) of the State median income to make the
15 program consistent with the child care subsidy requirements. Up to twenty percent
16 (20%) of children enrolled may have family incomes in excess of seventy-five percent
17 (75%) of median income if they have other designated risk factors.

18 **SECTION 10.67.(f)** The "More At Four" program funding shall not supplant
19 any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

20 **SECTION 10.67.(g)** The Department of Health and Human Services,
21 Division of Child Development, shall review and evaluate the early literacy project in
22 Davie County and consider incorporation of this curriculum into the "More At Four"
23 program.

24 **SECTION 10.67.(h)** The "More At Four" program shall contract with
25 Prevent Blindness of North Carolina for one hundred fifty thousand dollars (\$150,000)
26 for vision screenings for children in the "More At Four" program and other child care
27 classrooms.

28 **SECTION 10.67.(i)** The "More At Four" program shall provide a grant of
29 one hundred seventy-seven thousand dollars (\$177,000) to the Carolina Children's
30 Communicative Disorders Program at the University of North Carolina at Chapel Hill.

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

32 Requested by: Representatives Hunter, Warren

33 **PESTICIDE DISPOSAL PROGRAM**

34 **SECTION 11.1.** G.S. 143-468(b) reads as rewritten:

35 "(b) The Pesticide Environmental Trust Fund is established as a nonreverting
36 account within the Department of Agriculture and Consumer Services. The Department
37 of Agriculture and Consumer Services shall administer the Fund. The additional
38 assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of
39 pesticide shall be credited to the Fund. The Department shall distribute money in the
40 Fund as follows:

- 41 (1) Two and one-half percent (2.5%) to North Carolina State University
42 Cooperative Extension Service to enhance its agromedicine efforts in
43 cooperation with East Carolina University School of Medicine.
44 (2) Two and one-half percent (2.5%) to East Carolina University School
45 of Medicine to enhance its agromedicine efforts in cooperation with
46 North Carolina State University Cooperative Extension Service.
47 (3) Twenty percent (20%) to North Carolina State University, Department
48 of Toxicology, to establish and maintain an extension agromedicine
49 specialist position.
50 (4) Seventy-five percent (75%) to the Department of Agriculture and
51 Consumer Services for the costs of administering its pesticide disposal
52
53

1 program, including the salaries and support of staff for the pesticide
2 disposal program, and for its environmental programs, as directed by
3 the Board, including establishing a pesticide container management
4 program to enhance its pesticide disposal program and its water quality
5 initiatives."
6

7 Requested by: Representatives Hunter, Warren

8 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS AT**
9 **AGRICULTURAL RESEARCH STATIONS AND FARMS**

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

- 16 (1) \$378,000 for improvements at the swine facility at the Cherry
17 Research Farm.
18 (2) \$285,500 for renovation of dairy facilities at the Cherry Research
19 Farm.
20 (3) \$369,600 for land acquisition and development at the Tidewater
21 Research Station.
22

23 Requested by: Representatives Hunter, Warren

24 **PLANT CONSERVATION PROGRAM FUNDS**

25 **SECTION 11.3.** From funds received from the sale of timber that are
26 deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the
27 Department of Agriculture and Consumer Services in a capital improvement account,
28 the sum of twenty thousand dollars (\$20,000) shall be transferred to the Department of
29 Agriculture and Consumer Services to be used by the Department for its plant
30 conservation program under Article 19B of Chapter 106 of the General Statutes for
31 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
32 searches, and environmental studies.
33

34 Requested by: Representatives Hunter, Warren

35 **INCREASE FUNDS FOR NORTH CAROLINA GRAPE GROWERS COUNCIL**

36 **SECTION 11.4.** G.S. 105-113.81A reads as rewritten:

37 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
38 **wine.**

39 The Secretary shall on a quarterly basis credit to the Department of Agriculture and
40 Consumer Services the net proceeds of the excise tax collected on unfortified wine
41 bottled in North Carolina during the previous quarter and the net proceeds of the excise
42 tax collected on fortified wine bottled in North Carolina during the previous quarter,
43 except that the amount credited to the Department of Agriculture and Consumer
44 Services under this section shall not exceed ~~three hundred fifty thousand dollars~~
45 ~~(\$350,000)~~ five hundred thousand dollars (\$500,000) per fiscal year. The Department of
46 Agriculture and Consumer Services shall allocate the funds received under this section
47 to the North Carolina Grape Growers Council to be used to promote the North Carolina
48 grape and wine industry and to contract for research and development services to
49 improve viticultural and enological practices in North Carolina. Any funds credited to
50 the Department of Agriculture and Consumer Services under this section that are not
51 expended by June 30 of any fiscal year may not revert to the General Fund, but shall
52 remain available to the Department for the uses set forth in this section."
53

1 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL**
2 **RESOURCES**

3
4 Requested by: Representatives Hunter, Warren

5 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

6 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the
7 General Statutes, the Department of Environment and Natural Resources may transfer
8 from the General Water Supply Revolving Loan Account up to one million five hundred
9 thousand dollars (\$1,500,000) to the Department of Environment and Natural Resources
10 to be used to match the federal grant moneys authorized by section 1452 of the federal
11 Safe Drinking Water Act amendments of 1996 for the 2005-2006 fiscal year. The
12 General Water Supply Revolving Loan Account is an account under the Clean Water
13 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean
14 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.
15

16 Requested by: Representatives Hunter, Warren

17 **EXPAND EXPRESS REVIEW PROGRAM STATEWIDE**

18 **SECTION 12.2.(a)** Part 1 of Article 7 of Chapter 143B of the General
19 Statutes is amended by adding two new sections to read:

20 **"§ 143B-279.13. Express permit and certification reviews.**

21 (a) The Department of Environment and Natural Resources shall develop an
22 express review program to provide express permit and certification reviews in all of its
23 regional offices. Participation in the express review program is voluntary, and the
24 program is to become supported by the fees determined pursuant to subsection (b) of
25 this section. The Department of Environment and Natural Resources shall determine the
26 project applications to review under the express review program from those who request
27 to participate in the program. The express review program may be applied to any one or
28 all of the permits, approvals, or certifications in the following programs: the erosion and
29 sedimentation control program, the coastal management program, and the water quality
30 programs, including water quality certifications and stormwater management. The
31 express review program shall focus on the following permits or certifications:

- 32 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
33 General Statutes.
34 (2) Stream origination certifications under Article 21 of Chapter 143 of
35 the General Statutes.
36 (3) Water quality certification under Article 21 of Chapter 143 of the
37 General Statutes.
38 (4) Erosion and sedimentation control permits under Article 4 of Chapter
39 113A of the General Statutes.
40 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
41 Article 7 of Chapter 113A of the General Statutes.

42 (b) The Department of Environment and Natural Resources may determine the
43 fees for express application review under the express review program. Notwithstanding
44 G.S. 143-215.3D, the maximum permit application fee to be charged under subsection
45 (a) of this section for the express review of a project application requiring all of the
46 permits under subdivisions (1) through (5) of subsection (a) of this section shall not
47 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D,
48 the maximum permit application fee to be charged for the express review of a project
49 application requiring all of the permits under subdivisions (1) through (4) of subsection
50 (a) of this section shall not exceed four thousand five hundred dollars (\$4,500).
51 Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the
52 express review of a project application for any other combination of permits under
53 subdivisions (1) through (5) of subsection (a) of this section shall not exceed four

1 thousand dollars (\$4,000). Express review of a project application involving additional
2 permits or certifications issued by the Department of Environment and Natural
3 Resources other than those under subdivisions (1) through (5) of subsection (a) of this
4 section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or
5 any other statute or rule that sets a permit fee, the maximum permit application fee
6 charged for the express review of a project application shall not exceed four thousand
7 dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise
8 apply by statute or rule for that particular permit or certification. Additional fees, not to
9 exceed fifty percent (50%) of the original permit application fee under this section, may
10 be charged for subsequent reviews due to the insufficiency of the permit applications.
11 The Department of Environment and Natural Resources may establish the procedure by
12 which the amount of the fees under this subsection is determined, and the fees and
13 procedures are not rules under G.S. 150B-2(8a) for the express review program under
14 this section.

15 (c) No later than March 1 of each year, the Department of Environment and
16 Natural Resources shall report to the Fiscal Research Division and the Environmental
17 Review Commission its findings on the success of the program under this section and
18 any other findings or recommendations, including any legislative proposals that it
19 deems pertinent.

20 **"§ 143B-279.14. Express Review Fund.**

21 The Express Review Fund is created as a special nonreverting fund. All fees
22 collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The
23 Express Review Fund shall be used for the costs of implementing the express review
24 program under G.S. 143B-279.13 and the costs of administering the program, including
25 the salaries and support of the program's staff. If the express review program is
26 abolished, the funds in the Express Review Fund shall be credited to the General Fund."

27 **SECTION 12.2.(b)** The Department of Environment and Natural Resources
28 shall expand to a statewide program that operates in each regional office of the
29 Department the Express Review Pilot Program established by Section 11.4A of S.L.
30 2003-284 and expanded by Section 12.9 of S.L. 2004-124, and the provisions of
31 G.S. 143B-279.13, as enacted by subsection (a) of this section, shall apply to this
32 statewide program.

33 **SECTION 12.2.(c)** The Department of Environment and Natural Resources
34 shall establish and support 12 additional positions to administer the statewide express
35 review program under G.S. 143B-279.13, as enacted by subsection (a) of this section.
36 Up to seven hundred thirty-six thousand six hundred twenty-nine dollars (\$736,629) for
37 the 2005-2006 fiscal year and up to six hundred seventy-one thousand four hundred
38 nine dollars (\$671,409) for the 2006-2007 fiscal year shall be allocated from the
39 Express Review Fund created in G.S. 143B-279.14, as enacted by subsection (a) of this
40 section, to establish and support these 12 positions.

41 **SECTION 12.2.(d)** The Department of Environment and Natural Resources
42 shall continue and support the four positions established under Section 12.9(c) of S.L.
43 2004-124 to administer the statewide express review program under G.S. 143B-279.13,
44 as enacted by subsection (a) of this section. Up to two hundred twenty-three thousand
45 eight hundred three dollars (\$223,803) for the 2005-2006 fiscal year and up to two
46 hundred twenty-three thousand eight hundred three dollars (\$223,803) for the
47 2006-2007 fiscal year shall be allocated from the Express Review Fund created in
48 G.S. 143B-279.14, as enacted by subsection (a) of this section, to continue and support
49 these four positions.

50
51 Requested by: Representatives Hunter, Warren
52 **SEDIMENTATION EDUCATION FUNDS**

1 **SECTION 12.3.** The Department of Environment and Natural Resources
 2 shall use the funds appropriated in this act to the Department of Environment and
 3 Natural Resources for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for
 4 sedimentation education for only the following:

- 5 (1) Sedimentation education activities that provide technical assistance to
 6 local erosion and sedimentation control programs under G.S. 113A-60;
 7 or
- 8 (2) Sedimentation education to professionals involved in developing
 9 erosion and sedimentation control plans for which prior approval is
 10 required under Article 4 of Chapter 113A of the General Statutes.

11
 12 Requested by: Representatives Hunter, Warren

13 **FUNDS TO IMPLEMENT FISHING LICENSE REQUIREMENTS**
 14 **LEGISLATION/CONTINGENT REPEAL OF SALTWATER FISHING**
 15 **LICENSE REQUIREMENT**

16 **SECTION 12.4.(a)** The Wildlife Resources Commission may disburse up to
 17 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement Senate
 18 Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend
 19 Fishing License Requirements) if either bill becomes law no later than 30 days after
 20 adjournment of the 2005 Regular Session.

21 **SECTION 12.4.(b)** The State Treasurer shall transfer a sum equal to the sum
 22 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
 23 Fund to the Wildlife Resources Fund on July 1, 2010.

24 **SECTION 12.4.(c)** Sections 1 through 4 and Sections 6 through 12 of S.L.
 25 2004-187 and Section 12.16 of S.L. 2004-124 are repealed unless Senate Bill 1126
 26 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License
 27 Requirements) becomes law no later than 30 days after the adjournment in 2005 of the
 28 2005 Regular Session under a joint resolution.

29
 30 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 31 Michaux

32 **REPORT ON NATURAL HERITAGE PROGRAM**

33 **SECTION 12.4A.** No later than March 1, 2006, the Department of
 34 Environment and Natural Resources shall report to the General Assembly and to the
 35 Fiscal Research Division on the Natural Heritage Program under Article 9A of Chapter
 36 113A of the General Statutes. The report shall include an explanation of the duties and
 37 activities of each position that serves as staff to the Program, a summary of what has
 38 been accomplished under the Program each fiscal year since its inception, and
 39 justification for continuing the Program at its current staff level.

40
 41 Requested by: Representatives Hunter, Warren

42 **GRASSROOTS SCIENCE PROGRAM**

43 **SECTION 12.5.(a)** Of the funds appropriated in this act to the Department
 44 of Environment and Natural Resources for the Grassroots Science Program, the sum of
 45 three million one hundred ninety-seven thousand seven hundred sixty-two dollars
 46 (\$3,197,762) for the 2005-2006 fiscal year is allocated as grants-in-aid for each fiscal
 47 year as follows:

	2005-2006
48	
49	
50 Aurora Fossil Museum	\$58,794
51 Cape Fear Museum	\$157,784
52 Carolina Raptor Center	\$110,369
53 Catawba Science Center	\$131,007

1	Colburn Gem and Mineral Museum, Inc.	\$73,833
2	Discovery Place	\$645,072
3	Eastern NC Regional Science Center	\$50,000
4	Fascinate-U	\$79,849
5	Granville County Museum Commission,	
6	Inc.-Harris Gallery	\$56,236
7	Greensboro Children's Museum	\$132,606
8	The Health Adventure Museum of Pack	
9	Place Education, Arts and	
10	Science Center, Inc.	\$132,046
11	Highlands Nature Center	\$78,418
12	Imagination Station	\$84,988
13	Iredell Children's Museum	\$59,452
14	Kidsenses	\$50,000
15	Museum of Coastal Carolina	\$73,489
16	Natural Science Center of Greensboro	\$182,395
17	North Carolina Museum of Life	
18	and Science	\$370,250
19	Port Discover: Northeastern North Carolina's	
20	Center for Hands-on Science, Inc.	\$50,000
21	Rocky Mount Children's Museum	\$71,608
22	Schiele Museum of Natural History	\$224,334
23	Sci Works Science Center and	
24	Environmental Park of Forsyth County	\$143,697
25	Western North Carolina Nature Center	\$111,054
26	Wilmington Children's Museum	\$70,481
27		
28	Total	\$3,197,762

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

- 32 (1) The operating budget for the 2004-2005 fiscal year.
- 33 (2) The operating budget for the 2005-2006 fiscal year.
- 34 (3) The total attendance at the museum during the 2005 calendar year.

35
 36 Requested by: Representatives Hunter, Warren

37 **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

38 **SECTION 12.8.** Of the funds available to the Wildlife Resources
 39 Commission, the sum of seven hundred thousand dollars (\$700,000) for the 2005-2006
 40 fiscal year and the sum of seven hundred thousand dollars (\$700,000) for the 2006-2007
 41 fiscal year shall be used to provide the State share necessary to support the beaver
 42 damage control program established in G.S. 113-291.10, provided the sum of at least
 43 twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of
 44 the biennium to provide the federal share.

45
 46 Requested by: Representative Owens

47 **MONITORING AND EMERGENCY CLEANUP FUNDS FOR TEXFI SITE**
 48 **CONTAMINATION**

49 **SECTION 12.9.** Of the funds appropriated to the Department of
 50 Environment and Natural Resources, Division of Waste Management, for the
 51 2005-2006 fiscal year to cost share federal funds for the cleanup of Superfund sites, up
 52 to fifty thousand dollars (\$50,000) may be used by the Department of Environment and
 53 Natural Resources, Division of Waste Management, for the 2005-2006 fiscal year for

1 monitoring the groundwater and other contamination located at the Texfi site in
2 Fayetteville and for any emergency cleanup activities needed at this site.

3
4 **PART XIII. DEPARTMENT OF COMMERCE**

5
6 Requested by: Representatives Hunter, Warren

7 **COUNCIL OF GOVERNMENT FUNDS**

8 **SECTION 13.2.(a)** Of the funds appropriated in this act to the Department
9 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
10 for the 2005-2006 fiscal year and eight hundred thirty-two thousand one hundred fifty
11 dollars (\$832,150) for the 2006-2007 fiscal year shall only be used as provided by this
12 section. Each regional council of government or lead regional organization is allocated
13 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2005-2006 and
14 the 2006-2007 fiscal years.

15 **SECTION 13.2.(b)** A regional council of government may use funds
16 appropriated by this section only to assist local governments in grant applications,
17 economic development, community development, support of local industrial
18 development activities, and other activities as deemed appropriate by the member
19 governments.

20 **SECTION 13.2.(c)** Funds appropriated by this section shall be paid by
21 electronic transfer in two equal installments, the first no later than September 1, 2005,
22 and the second subsequent to acceptable submission of the annual report due to the Joint
23 Legislative Commission on Governmental Operations and the Fiscal Research Division
24 by January 15, 2006, as specified in subdivision (e)(2) of this section.

25 **SECTION 13.2.(d)** Funds appropriated by this section shall not be used for
26 payment of dues or assessments by the member governments and shall not supplant
27 funds appropriated by the member governments.

28 **SECTION 13.2.(e)** Each council of government or lead regional
29 organization shall do the following:

- 30 (1) By January 15, 2006, and more frequently as requested, report to the
31 Joint Legislative Commission on Governmental Operations and the
32 Fiscal Research Division the following information:
33 a. State fiscal year 2004-2005 program activities, objectives, and
34 accomplishments;
35 b. State fiscal year 2004-2005 itemized expenditures and fund
36 sources;
37 c. State fiscal year 2005-2006 planned activities, objectives, and
38 accomplishments, including actual results through December
39 31, 2005; and
40 d. State fiscal year 2005-2006 estimated itemized expenditures
41 and fund sources, including actual expenditures and fund
42 sources through December 31, 2005.
- 43 (2) By January 15, 2007, and more frequently as requested, report to the
44 Joint Legislative Commission on Governmental Operations and the
45 Fiscal Research Division the following information:
46 a. State fiscal year 2005-2006 program activities, objectives, and
47 accomplishments;
48 b. State fiscal year 2005-2006 itemized expenditures and fund
49 sources;
50 c. State fiscal year 2006-2007 planned activities, objectives, and
51 accomplishments, including actual results through December
52 31, 2006; and

- 1 d. State fiscal year 2006-2007 estimated itemized expenditures
2 and fund sources, including actual expenditures and fund
3 sources through December 31, 2006.
4 (3) Provide to the Fiscal Research Division a copy of the organization's
5 annual audited financial statement within 30 days of issuance of the
6 statement.
7

8 Requested by: Representatives Hunter, Warren

9 **TOURISM PROMOTION GRANTS**

10 **SECTION 13.3.(a)** Tourism promotion funds appropriated to the
11 Department of Commerce shall be allocated to counties based on need. Determination
12 of counties that are most in need of State assistance shall be made in accordance with
13 the existing State tier formula provided in G.S. 105-129.3.

14 **SECTION 13.3.(b)** Funds appropriated in this act to the Department of
15 Commerce for tourism promotion grants shall be allocated according to the economic
16 development tier assigned by the Department of Commerce in the following manner:

- 17 (1) Eligible organizations in counties with a Tier 1 or 2 designation are
18 each eligible to receive a maximum grant of seven thousand five
19 hundred dollars (\$7,500) for each fiscal year, provided these funds are
20 matched on the basis of one non-State dollar (\$1.00) for every four
21 State dollars (\$4.00).
22 (2) Eligible organizations in counties with a Tier 3 or 4 designation are
23 each eligible to receive a maximum grant of three thousand five
24 hundred dollars (\$3,500) for two of the next three fiscal years,
25 provided these funds are matched on the basis of one non-State dollar
26 (\$1.00) for every three State dollars (\$3.00).
27 (3) Eligible organizations in counties with a Tier 5 designation are each
28 eligible to receive a maximum grant of three thousand five hundred
29 dollars (\$3,500) in alternating fiscal years provided these funds are
30 matched on the basis of two non-State dollars (\$2.00) for every one
31 State dollar (\$1.00).
32

33 **SECTION 13.3.(c)** An eligible organization that applies for but does not
34 receive tourism promotion grant funds may apply for and be awarded funds in the
35 following fiscal year. The fact that one or more eligible organizations in a county are
36 awarded tourism promotion grant funds in a given fiscal year shall not bar other eligible
37 organizations in that county from applying for and being awarded funds in the next
38 fiscal year.

39 Requested by: Representatives Hunter, Warren

40 **EMPLOYMENT SECURITY FUNDS**

41 **SECTION 13.4.** There is appropriated from the Special Employment
42 Security Administration Fund to the Employment Security Commission of North
43 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the
44 2005-2006 fiscal year to be used for the following purposes:

- 45 (1) Six million dollars (\$6,000,000) for the operation and support of local
46 offices.
47 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
48 Information Coordinating Committee to develop and operate an
49 interagency system to track former participants in State education and
50 training programs.
51 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
52 Chapter 96 of the General Statutes, which directs the Commission to
53 employ the Common Follow-Up Management Information System to

1 evaluate the effectiveness of the State's job training, education, and
2 placement programs.

3
4 Requested by: Representatives Hunter, Warren

5 **TRADE JOBS FOR SUCCESS REPORTING**

6 **SECTION 13.4A.(a)** In addition to the statutory reporting requirements
7 pursuant to G.S. 143B-438.17, the Employment Security Commission, Department of
8 Commerce, and the Community Colleges System Office shall make a joint written
9 progress report on their compliance with Section 13.7A of S.L. 2004-124, as to the
10 following:

- 11 (1) The actions taken to obtain from the U.S. Department of Labor as
12 quickly as possible a waiver under the Trade Adjustment Act to allow
13 the Trade Jobs for Success initiative to (i) serve persons regardless of
14 their age, (ii) use unemployment funds to provide direct monetary
15 incentives to participating employers and direct income to eligible
16 workers in the retraining program, and (iii) use funds for in-State
17 relocation assistance.
- 18 (2) Whether waivers have been sought for other program components.
- 19 (3) The progress made in implementing the Trade Jobs for Success
20 initiative in the counties hardest hit by trade-impacted job losses,
21 particularly the counties having an unemployment rate of eight percent
22 (8%) and the extent to which these counties have received priority
23 consideration.
- 24 (4) The efforts of the Department of Commerce seeking and receiving
25 private grants and federal funds for the Trade Jobs for Success
26 initiative.
- 27 (5) Any reasons why legislative mandates have not been followed or the
28 statutory goals have not been achieved.

29 The progress report shall be submitted to the Joint Legislative Commission on
30 Governmental Operations and to the Chairs of the Appropriations Committees of the
31 Senate and the House of Representatives by August 1, 2005.

32 **SECTION 13.4A.(b)** G.S. 143B-438.17 reads as rewritten:

33 **"§ 143B-438.17. Reporting.**

34 (a) Beginning July 1, 2005, the Department of Commerce, in conjunction
35 with the Employment Security Commission and the Community Colleges System
36 Office, shall publish a quarterly-written report on the Trade Jobs for Success
37 (TJS) initiative. The monthly report shall provide information on the commitment,
38 disbursement, and use of funds and the status of any grant proposals or waivers
39 requested on behalf of the Trade Jobs for Success initiative. The monthly report shall be
40 submitted to the Governor and to the Fiscal Research Division of the General Assembly.

41 (b) Beginning October 1, 2005, the Department of Commerce, in conjunction
42 with the Employment Security Commission and the Community Colleges System
43 Office, shall publish a quarterly written report on the Trade Jobs for Success initiative.
44 The quarterly report shall also include legislative proposals and recommendations
45 regarding statutory changes needed to maximize the effectiveness and flexibility of the
46 TJS initiative. Copies of the quarterly report shall be provided to the Joint Legislative
47 Commission on Governmental Operations, to the chairs of the Senate and House of
48 Representatives Appropriations Committees, and to the Fiscal Research Division of the
49 General Assembly.

50 (c) Beginning January 1, 2006, the Department of Commerce, in conjunction
51 with the Employment Security Commission and the Community Colleges System
52 Office, shall publish a comprehensive annual written report on the Trade Jobs for
53 Success initiative. The annual report shall include a detailed explanation of outcomes

1 and future planning for the TJS initiative. Copies of the annual report shall be provided
 2 to the Governor, to the Joint Legislative Commission on Governmental Operations, to
 3 the chairs of the Senate and House of Representatives Appropriations Committees, and
 4 to the Fiscal Research Division of the General Assembly."

5
 6 Requested by: Representatives Hunter, Warren

7 **INDUSTRIAL DEVELOPMENT FUND**

8 **SECTION 13.5.** G.S. 143B-437.01 reads as rewritten:

9 **"§ 143B-437.01. Industrial Development Fund.**

10 (a) Creation and Purpose of Fund. – There is created in the Department of
 11 Commerce the Industrial Development Fund to provide funds to assist the local
 12 government units of the most economically distressed counties in the State in creating
 13 jobs in certain industries. The Department of Commerce shall adopt rules providing for
 14 the administration of the program. Those rules shall include the following provisions,
 15 which shall apply to each grant from the fund:

- 16 ...
 17 (1) The funds shall be used for (i) installation of or purchases of
 18 equipment for eligible industries, (ii) structural repairs, improvements,
 19 or renovations of existing buildings to be used for expansion of
 20 eligible industries, or (iii) construction of or improvements to new or
 21 existing water, sewer, gas, telecommunications, high-speed broadband,
 22 ~~or~~ electrical utility distribution lines or equipment~~equipment,~~ or
 23 transportation infrastructure for existing or new or proposed industrial
 24 buildings to be used for eligible industries. To be eligible for funding,
 25 the water, sewer, gas, telecommunications, high-speed broadband, ~~or~~
 26 electrical utility lines or facilities~~facilities,~~ or transportation
 27 infrastructure shall be located on the site of the building or, if not
 28 located on the site, shall be directly related to the operation of the
 29 specific eligible industrial activity.

30 ...
 31 (b1) Utility Account. – There is created within the Industrial Development Fund a
 32 special account to be known as the Utility Account to provide funds to assist the local
 33 government units of enterprise tier one, two, and three areas, as defined in
 34 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
 35 shall adopt rules providing for the administration of the program. Except as otherwise
 36 provided in this subsection, those rules shall be consistent with the rules adopted with
 37 respect to the Industrial Development Fund. The rules shall provide that the funds in the
 38 Utility Account may be used only for construction of or improvements to new or
 39 existing water, sewer, gas, telecommunications, high-speed broadband, ~~or~~ electrical
 40 utility distribution lines or ~~equipment~~equipment, or transportation infrastructure for
 41 existing or new or proposed industrial buildings to be used for eligible industrial
 42 operations. To be eligible for funding, the water, sewer, gas, telecommunications,
 43 high-speed broadband, ~~or~~ electrical utility lines or ~~facilities~~facilities, or transportation
 44 infrastructure shall be located on the site of the building or, if not located on the site,
 45 shall be directly related to the operation of the specific industrial activity. There shall be
 46 no maximum funding amount per new job to be created or per project.

47"

48
 49 Requested by: Representatives Hunter, Warren

50 **ONE NORTH CAROLINA FUND**

51 **SECTION 13.6.(a)** Of the funds appropriated in Section 1(a) of S.L.
 52 2004-88 to the One North Carolina Fund, the Department of Commerce may use up to
 53 three hundred thousand dollars (\$300,000) to cover its expenses in administering the

1 One North Carolina Fund and other economic development incentive grant programs in
2 the 2005-2006 fiscal year.

3 **SECTION 13.6.(b)** Notwithstanding the provisions of G.S. 143B-437.71, of
4 the funds appropriated in Section 1(a) of S.L. 2004-88 to the One North Carolina Fund,
5 the Department of Commerce shall allocate one million dollars (\$1,000,000) for the
6 2005-2006 fiscal year to Johnson and Wales University in Charlotte for the purpose of
7 providing financial assistance to the University.

8
9 Requested by: Representatives Hunter, Warren

10 **STUDY ALTERNATE FUNDING OF INDUSTRIAL COMMISSION**

11 **SECTION 13.6A.** The Department of Commerce and the Industrial
12 Commission shall jointly conduct a study to determine the feasibility of terminating
13 General Fund support for the Industrial Commission and providing for the costs of the
14 Commission's operations and personnel by increasing the Commission's existing fees or
15 establishing new fees. The Department and Commission shall report the results of its
16 study and make recommendations for alternate ways of funding the Commission to the
17 House of Representatives Appropriations Subcommittee on Natural and Economic
18 Resources, the Office of State Budget and Management, and the Fiscal Research
19 Division no later than April 1, 2006.

20
21 Requested by: Representatives Hunter, Warren, L. Allen, Wray

22 **ROANOKE RAPIDS MUSIC/ENTERTAINMENT COMPLEX**

23 **SECTION 13.6B.** There is appropriated from the General Fund to the
24 Department of Commerce the sum of seven hundred fifty thousand dollars (\$750,000)
25 for the 2005-2006 fiscal year to be allocated to the Roanoke Rapids Entertainment
26 District for the construction of a music and entertainment complex in Roanoke Rapids.
27 The Department of Commerce shall not release funds appropriated in this section until
28 the Office of State Budget and Management has determined that the Roanoke Rapids
29 Entertainment District has entered into the contracts necessary for the successful
30 completion of the complex. Beginning September 1, 2005, and quarterly thereafter, the
31 Roanoke Rapids Entertainment District shall report its progress in completing the
32 complex and the total funds received to date to the Office of State Budget and
33 Management, the Department of Commerce, and the Fiscal Research Division.

34
35 Requested by: Representatives Hunter, Warren

36 **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS**

37 **SECTION 13.6C.(a)** There is appropriated from the General Fund to the
38 Department of Commerce the sum of one million seven hundred fifty thousand dollars
39 (\$1,750,000) for the 2005-2006 fiscal year to be allocated to the seven regional
40 economic development commissions. Of these funds, each regional economic
41 development commission shall receive two hundred fifty thousand dollars (\$250,000).
42 These funds shall be used by each commission to develop and implement a strategic
43 economic development plan as provided in Section 13.6 of S.L. 2004-124.

44 **SECTION 13.6C.(b)** G.S. 143B-437.21(6)d reads as rewritten:

45 "d. ~~The Global TransPark Development Eastern North Carolina~~
46 Regional Economic Development Commission created in
47 G.S. 158-33."

48 **SECTION 13.6C.(c)** G.S. 158-32(2) reads as rewritten:

49 "(2) Commission. – ~~The Global TransPark Development Eastern North~~
50 Carolina Regional Economic Development Commission, the
51 governing body of the Global TransPark Development Zone."

52 **SECTION 13.6C.(d)** G.S. 158-33.1(b) reads as rewritten:

1 "(b) Application. – The governing body of an eligible county may apply to
2 participate in the Zone under this section by adopting a resolution to participate in the
3 Zone. The resolution must comply with all the requirements of G.S. 158-33(a) and (b)
4 except that it may be adopted at any time before October 1, 1994. After adopting the
5 resolution, the county shall file a certified copy of the resolution with the ~~Global~~
6 ~~TransPark Development~~ Eastern North Carolina Regional Economic Development
7 Commission."

8 **SECTION 13.6C.(e)** The prefatory language to G.S. 158-35(a) reads as
9 rewritten:

10 "(a) Commission Membership. – The governing body of the Zone is the ~~Global~~
11 ~~TransPark Development~~ Eastern North Carolina Regional Economic Development
12 Commission. The members of the Commission must be residents of the Zone and shall
13 be appointed as follows:"

14
15 Requested by: Representatives Hunter, Warren

16 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

17 **SECTION 13.7.(a)** Funds appropriated in this act to the Department of
18 Commerce for regional economic development commissions shall be allocated to the
19 following Commissions in accordance with subsection (b) of this section: Western
20 North Carolina Regional Economic Development Commission, Research Triangle
21 Regional Commission, Southeastern North Carolina Regional Economic Development
22 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
23 Economic Development Commission, Global TransPark Development Commission,
24 and Carolinas Partnership, Inc.

25 **SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this
26 section shall be allocated to each Regional Economic Development Commission as
27 follows:

- 28 (1) First, the Department shall establish each Commission's allocation by
29 determining the sum of allocations to each county that is a member of
30 that Commission. Each county's allocation shall be determined by
31 dividing the county's enterprise factor by the sum of the enterprise
32 factors for eligible counties and multiplying the resulting percentage
33 by the amount of the appropriation. As used in this subdivision, the
34 term "enterprise factor" means a county's enterprise factor as
35 calculated under G.S. 105-129.3; and
- 36 (2) Next, the Department shall subtract from funds allocated to the Global
37 TransPark Development Commission the sum of one hundred eighteen
38 thousand one hundred twenty-nine dollars (\$118,129) in the
39 2005-2006 fiscal year and one hundred eighteen thousand four
40 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal
41 year, which sum represents the interest earnings in each fiscal year on
42 the estimated balance of seven million five hundred thousand dollars
43 (\$7,500,000) appropriated to the Global TransPark Development Zone
44 in Section 6 of Chapter 561 of the 1993 Session Laws; and
- 45 (3) Next, the Department shall redistribute the sum of one hundred
46 eighteen thousand one hundred twenty-nine dollars (\$118,129) in the
47 2005-2006 fiscal year and one hundred eighteen thousand four
48 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal year
49 to the seven Regional Economic Development Commissions named in
50 subsection (a) of this section. Each Commission's share of this
51 redistribution shall be determined according to the enterprise factor
52 formula set out in subdivision (1) of this subsection. This

redistribution shall be in addition to each Commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Hunter, Warren

REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS

SECTION 13.8.(a) By February 15 of each fiscal year, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) The preceding fiscal year's program activities, objectives, and accomplishments.
- (2) The preceding fiscal year's itemized expenditures and fund sources.
- (3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.
- (4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

SECTION 13.8.(b) Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.8.(c) The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development, and recommendations for changes to the reporting requirements shall be made to the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 13.8.(d) Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

SECTION 13.8.(e) Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

Requested by: Representatives Hunter, Warren, L. Allen, Wray

NORTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION

SECTION 13.8A. There is appropriated from the General Fund to the Department of Commerce the sum of seven million five hundred thousand dollars (\$7,500,000) for the 2005-2006 fiscal year to be allocated to the Northeastern North Carolina Regional Economic Development Commission (Commission) for the construction and operation of the Advanced Vehicle Research Center (Center). The Department of Commerce shall not release funds appropriated in this section until the Office of State Budget and Management has determined that the Commission has entered into the contracts necessary for the successful completion of the Center. Beginning September 1, 2005, and quarterly thereafter, the Commission shall report its progress in completing the Center and the total funds received to date to the Office of State Budget and Management, the Department of Commerce, and the Fiscal Research Division.

Requested by: Representatives Hunter, Warren

NONPROFIT REPORTING REQUIREMENTS

1 **SECTION 13.9.(a)** The N.C. Institute for Minority Economic Development,
2 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
3 Carolina Community Development Initiative, Inc., North Carolina Association of
4 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
5 Partnership for the Sounds, Inc., shall do the following:

- 6 (1) By January 15, 2006, and more frequently as requested, report to the
7 Joint Legislative Commission on Governmental Operations and the
8 Fiscal Research Division the following information:
9 a. State fiscal year 2004-2005 program activities, objectives, and
10 accomplishments;
11 b. State fiscal year 2004-2005 itemized expenditures and fund
12 sources;
13 c. State fiscal year 2005-2006 planned activities, objectives, and
14 accomplishments including actual results through December 31,
15 2005; and
16 d. State fiscal year 2005-2006 estimated itemized expenditures
17 and fund sources including actual expenditures and fund
18 sources through December 31, 2005.
19 (2) By January 15, 2007, and more frequently as requested, report to the
20 Joint Legislative Commission on Governmental Operations and the
21 Fiscal Research Division the following information:
22 a. State fiscal year 2005-2006 program activities, objectives, and
23 accomplishments;
24 b. State fiscal year 2005-2006 itemized expenditures and fund
25 sources;
26 c. State fiscal year 2006-2007 planned activities, objectives, and
27 accomplishments including actual results through December 31,
28 2006; and
29 d. State fiscal year 2006-2007 estimated itemized expenditures
30 and fund sources including actual expenditures and fund
31 sources through December 31, 2006.
32 (3) Provide to the Fiscal Research Division a copy of the organization's
33 annual audited financial statement within 30 days of issuance of the
34 statement.

35 **SECTION 13.9.(b)** No funds appropriated under this act shall be released to
36 a nonprofit organization listed in subsection (a) of this section until the organization has
37 satisfied the reporting requirement for January 15, 2005. Fourth quarter allotments shall
38 not be released to any nonprofit organization that does not satisfy the reporting
39 requirements by January 15, 2006, or January 15, 2007.

40
41 Requested by: Representatives Hunter, Warren

42 **BIOTECHNOLOGY CENTER**

43 **SECTION 13.10.(a)** The North Carolina Biotechnology Center shall
44 recapture funds spent in support of successful research and development efforts in the
45 for-profit private sector.

46 **SECTION 13.10.(b)** The North Carolina Biotechnology Center shall
47 provide funding for biotechnology, biomedical, and related bioscience applications
48 under its Business and Science Technology Programs.

49 **SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

- 50 (1) By January 15, 2006, and more frequently as requested, report to the
51 Joint Legislative Commission on Governmental Operations and the
52 Fiscal Research Division the following information:

- 1 a. State fiscal year 2004-2005 program activities, objectives, and
- 2 accomplishments;
- 3 b. State fiscal year 2004-2005 itemized expenditures and fund
- 4 sources;
- 5 c. State fiscal year 2005-2006 planned activities, objectives, and
- 6 accomplishments, including actual results through December
- 7 31, 2005; and
- 8 d. State fiscal year 2005-2006 estimated itemized expenditures
- 9 and fund sources, including actual expenditures and fund
- 10 sources through December 31, 2005.
- 11 (2) By January 15, 2007, and more frequently as requested, report to the
- 12 Joint Legislative Commission on Governmental Operations and the
- 13 Fiscal Research Division the following information:
- 14 a. State fiscal year 2005-2006 program activities, objectives, and
- 15 accomplishments;
- 16 b. State fiscal year 2005-2006 itemized expenditures and fund
- 17 sources;
- 18 c. State fiscal year 2006-2007 planned activities, objectives, and
- 19 accomplishments, including actual results through December
- 20 31, 2006; and
- 21 d. State fiscal year 2006-2007 estimated itemized expenditures
- 22 and fund sources, including actual expenditures and fund
- 23 sources through December 31, 2006.
- 24 (3) Provide to the Fiscal Research Division a copy of the organization's
- 25 annual audited financial statement within 30 days of issuance of the
- 26 statement.

27 **SECTION 13.10.(d)** The North Carolina Biotechnology Center shall
 28 provide a report containing detailed budget, personnel, and salary information to the
 29 Office of State Budget and Management and to the Fiscal Research Division in the same
 30 manner as State departments and agencies in preparation for biennium budget requests.

31 Requested by: Representatives Hunter, Warren
 32 **RURAL ECONOMIC DEVELOPMENT CENTER**

33 **SECTION 13.11.(a)** Of the funds appropriated in this act to the Rural
 34 Economic Development Center, Inc., the sum of two million five hundred seventy-five
 35 thousand six hundred ninety-seven dollars (\$2,575,697) for the 2005-2006 fiscal year
 36 and the sum of two million two hundred seventy-five thousand six hundred ninety-seven
 37 dollars (\$2,275,697) for the 2006-2007 fiscal year shall be allocated as follows:

	2005-2006	2006-2007
40 Research and Demonstration Grants	\$620,000	\$620,000
41 Technical Assistance and Center		
42 Administration of Research		
43 and Demonstration Grants	444,399	444,399
44 Center Administration, Oversight,		
45 and Other Programs	604,298	604,298
46 Administration of Clean Water/ 47 Natural Gas Critical Needs		
48 Bond Act of 1998	199,722	199,722
49 Additional Administration of Supplemental		
50 Funding Program	438,278	138,278
51 Administration of Capacity Building		
52 Assistance Program (1998 Bond Act)	125,000	125,000
53 Institute for Rural Entrepreneurship	144,000	144,000.

1 **SECTION 13.11.(b)** Of the funds allocated for Research and Demonstration
2 Grants for fiscal year 2005-2006 and fiscal year 2006-2007 in subsection (a) of this
3 section, the sum of two hundred fifty thousand dollars (\$250,000) may be allocated to
4 the e-NC Authority to establish Business and Technology Telecenters.

5 **SECTION 13.11.(c)** Of the funds allocated for Additional Administration of
6 Supplemental Funding Program for fiscal year 2005-2006 in subsection (a) of this
7 section, the sum of one hundred fifty thousand dollars (\$150,000) may be allocated to
8 Pitt County, the sum of seventy-five thousand dollars (\$75,000) to Martin County, and
9 the sum of seventy-five thousand dollars (\$75,000) to Hertford County for the purpose
10 of water or wastewater projects.

11 **SECTION 13.11.(d)** The Rural Economic Development Center, Inc., shall
12 provide a report containing detailed budget, personnel, and salary information to the
13 Office of State Budget and Management in the same manner as State departments and
14 agencies in preparation for biennium budget requests.

15 **SECTION 13.11.(e)** For purposes of this section, the term "community
16 development corporation" means a nonprofit corporation:

- 17 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 18 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
19 Code of 1986;
- 20 (3) Whose primary mission is to develop and improve low-income
21 communities and neighborhoods through economic and related
22 development;
- 23 (4) Whose activities and decisions are initiated, managed, and controlled
24 by the constituents of those local communities; and
- 25 (5) Whose primary function is to act as deal maker and packager of
26 projects and activities that will increase their constituencies'
27 opportunities to become owners, managers, and producers of small
28 businesses, affordable housing, and jobs designed to produce positive
29 cash flow and curb blight in the targeted community.

30 **SECTION 13.11.(f)** Of the funds appropriated in this act to the Rural
31 Economic Development Center, Inc., the sum of two million nine hundred fifteen
32 thousand nine hundred ten dollars (\$2,915,910) for the 2005-2006 fiscal year and the
33 sum of two million nine hundred fifteen thousand nine hundred ten dollars (\$2,915,910)
34 for the 2006-2007 fiscal year shall be allocated as follows:

- 35 (1) \$1,547,410 in each fiscal year for community development grants to
36 support development projects and activities within the State's minority
37 communities. Any new or previously funded community development
38 corporation as defined in this section is eligible to apply for funds. The
39 Rural Economic Development Center, Inc., shall establish
40 performance-based criteria for determining which community
41 development corporation will receive a grant and the grant amount.
42 The Rural Economic Development Center, Inc., shall allocate these
43 funds as follows:
 - 44 a. \$1,497,410 for direct grants to local community development
45 corporations to support operations and project activities.
 - 46 b. \$50,000 in each fiscal year to the Rural Economic Development
47 Center, Inc., to be used to cover expenses in administering this
48 section.
- 49 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
50 support the loan fund and operations of the Program; and
- 51 (3) \$983,000 in each fiscal year shall be used for a program to provide
52 supplemental funding for matching requirements for projects and

1 activities authorized under this subsection. The Center shall allocate
2 these funds as follows:

- 3 a. \$675,000 in each fiscal year to make grants to local
4 governments and nonprofit corporations to provide funds
5 necessary to match federal grants or other grants for:
6 1. Necessary economic development projects and activities
7 in economically distressed areas;
8 2. Necessary water and sewer projects and activities in
9 economically distressed communities to address health
10 or environmental quality problems except that funds
11 shall not be expended for the repair or replacement of
12 low-pressure-pipe wastewater systems. If a grant is
13 awarded under this sub-subdivision, then the grant shall
14 be matched on a dollar-for-dollar basis in the amount of
15 the grant awarded; or
16 3. Projects that demonstrate alternative water and waste
17 management processes for local governments. Special
18 consideration should be given to cost-effectiveness,
19 efficacy, management efficiency, and the ability of the
20 demonstration project to be replicated.
- 21 b. \$208,000 in each fiscal year to make grants to local
22 governments and nonprofit corporations to provide funds
23 necessary to match federal grants or other grants related to
24 water, sewer, or business development projects.
- 25 c. \$100,000 in each fiscal year to support the update of the
26 statewide water and sewer database and to support the
27 development of a statewide water management plan.

28 (4) \$190,500 in each fiscal year for the Agricultural Advancement
29 Consortium. These funds shall be placed in a reserve and allocated as
30 follows:

- 31 a. \$75,000 in each fiscal year for operating expenses associated
32 with the Consortium; and
33 b. \$115,500 in each fiscal year for research initiatives funded by
34 the Consortium.

35 The Consortium shall facilitate discussions among interested parties
36 and shall develop recommendations to improve the State's economic
37 development through farming and agricultural interests.

38 The grant recipients in this subsection shall be selected on the basis of need.

39 **SECTION 13.11.(g)** The Rural Economic Development Center, Inc., shall:

- 40 (1) By January 15, 2006, and more frequently as requested, report to the
41 Joint Legislative Commission on Governmental Operations and the
42 Fiscal Research Division the following information:
43 a. State fiscal year 2004-2005 program activities, objectives, and
44 accomplishments;
45 b. State fiscal year 2004-2005 itemized expenditures and fund
46 sources;
47 c. State fiscal year 2005-2006 planned activities, objectives, and
48 accomplishments, including actual results through December
49 31, 2005; and
50 d. State fiscal year 2005-2006 estimated itemized expenditures
51 and fund sources, including actual expenditures and fund
52 sources through December 31, 2005.

- 1 (2) By January 15, 2007, and more frequently as requested, report to the
2 Joint Legislative Commission on Governmental Operations and the
3 Fiscal Research Division the following information:
4 a. State fiscal year 2005-2006 program activities, objectives, and
5 accomplishments;
6 b. State fiscal year 2005-2006 itemized expenditures and fund
7 sources;
8 c. State fiscal year 2006-2007 planned activities, objectives, and
9 accomplishments, including actual results through December
10 31, 2006; and
11 d. State fiscal year 2006-2007 estimated itemized expenditures
12 and fund sources, including actual expenditures and fund
13 sources through December 31, 2006.
14 (3) Provide to the Fiscal Research Division a copy of each grant
15 recipient's annual audited financial statement within 30 days of
16 issuance of the statement.

17 **SECTION 13.11.(h)** No funds appropriated under this act shall be released
18 to a community development corporation, as defined in this section, unless the
19 corporation can demonstrate that there are no outstanding or proposed assessments or
20 other collection actions against the corporation for any State or federal taxes, including
21 related penalties, interest, and fees.
22

23 Requested by: Representatives Hunter, Warren

24 **RURAL ECONOMIC DEVELOPMENT CENTER**

25 **SECTION 13.12.(a)** Of the funds appropriated in this act to the Rural
26 Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000)
27 for the 2005-2006 fiscal year and the sum of twenty million dollars (\$20,000,000) for
28 the 2006-2007 fiscal year shall be allocated as follows:

- 29 (1) To continue the North Carolina Infrastructure Program. The purpose of
30 the Program is to provide grants to local governments to construct
31 critical water and wastewater facilities and to provide other
32 infrastructure needs, including technology needs, to sites where these
33 facilities will generate private job-creating investment. At least fifteen
34 million dollars (\$15,000,000) of the funds appropriated in this act for
35 each year of the biennium must be used to provide grants under this
36 Program.
37 (2) To provide matching grants to local governments in distressed areas
38 and equity investments in public-private ventures that will
39 productively reuse vacant buildings and properties, with priority given
40 to towns or communities with populations of less than 5,000.
41 (3) To provide economic development research and demonstration grants.

42 **SECTION 13.12.(b)** The funds appropriated in this act to the Rural
43 Economic Development Center, Inc., shall be recurring funds.

44 **SECTION 13.12.(c)** The Rural Economic Development Center, Inc., may
45 contract with other State agencies, constituent institutions of The University of North
46 Carolina, and colleges within the North Carolina Community College System for certain
47 aspects of the North Carolina Infrastructure Program, including design of Program
48 guidelines and evaluation of Program results.

49 **SECTION 13.12.(d)** During each year of the 2005-2007 biennium, the Rural
50 Economic Development Center, Inc., may use up to two percent (2%) of the funds
51 appropriated in this act to cover its expenses in administering the North Carolina
52 Economic Infrastructure Program.

1 **SECTION 13.12.(e)** No later than January 15 each year, the Rural Economic
2 Development Center, Inc., shall submit an annual report to the Joint Legislative
3 Commission on Governmental Operations concerning the progress of the North
4 Carolina Economic Infrastructure Program.

5 **SECTION 13.12.(f)** Of the funds appropriated in this act to the Rural
6 Economic Development Center, Inc., the sum of five hundred thousand dollars
7 (\$500,000) for the 2005-2006 fiscal year and the sum of five hundred thousand dollars
8 (\$500,000) for the 2006-2007 fiscal year shall be allocated to the e-NC Authority.

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

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

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

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

27 **SECTION 13.12.(g)** G.S. 143B-437.46(b) reads as rewritten:

28 "(b) Commission. – The Authority shall be governed by a Commission. The
29 Commission shall consist of ~~nine voting members and six non voting ex officio~~ 15
30 voting members, as follows:

- 31 (1) Three members appointed by the Governor.
- 32 (2) Three members appointed by the General Assembly upon the
33 recommendation of the President Pro Tempore of the Senate in
34 accordance with G.S. 120-121.
- 35 (3) Three members appointed by the General Assembly upon the
36 recommendation of the Speaker of the House of Representatives in
37 accordance with G.S. 120-121.
- 38 (4) ~~Six ex officio, non voting ex officio~~ members to include the Secretary
39 of Commerce, the State Chief Information Officer, the President of the
40 North Carolina Rural Economic Development Center, Inc., the
41 Executive Director of the North Carolina Justice and Community
42 Development Center, the Executive Director of the North Carolina
43 League of Municipalities, the Executive Director of the North Carolina
44 Association of County Commissioners, or their designees.

45 It is the intent of the General Assembly that the appointing authorities, in making
46 appointments, shall consider members who represent the geographic, gender, and racial
47 diversity of the State, members who represent rural counties, members who represent
48 distressed urban areas, members who represent the regional partnerships, and members
49 who represent the communications industry. For the purpose of this subsection, the term
50 "communications industry" includes local telephone exchange companies, rural
51 telephone cooperatives, Internet service providers, commercial wireless
52 communications carriers, cable television companies, satellite companies, and other
53 communications businesses."

1
2 Requested by: Representatives LaRoque, Warren, McLawhorn

3 **RURAL ECONOMIC DEVELOPMENT CENTER FUNDS FOR WATER**
4 **PROJECTS**

5 **SECTION 13.12A.(a)** There is appropriated from the Dry-Cleaning Solvent
6 Cleanup Fund to the Rural Economic Development Center, Inc., the sum of four million
7 dollars (\$4,000,000) for the 2005-2006 fiscal year to be allocated as follows:

- 8 (1) To the Neuse Regional Water and Sewer Authority.
9 (2) To the Town of Farmville for the Farmville-Greene County Greenville
10 Utilities water project.

11 **SECTION 13.12A.(b)** The Rural Economic Development Center, Inc., shall
12 distribute the funds appropriated under this section between the recipients under
13 subsection (a) of this section as it determines appropriate.
14

15 Requested by: Representatives Hunter, Warren

16 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

17 **SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural
18 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
19 dollars (\$361,000) for the 2005-2006 fiscal year and the sum of three hundred sixty-one
20 thousand dollars (\$361,000) for the 2006-2007 fiscal year shall be equally distributed
21 among the certified Opportunities Industrialization Centers for ongoing job training
22 programs.

23 **SECTION 13.13.(b)** For each of the Opportunities Industrialization Centers
24 receiving funds pursuant to subsection (a) of this section, the Rural Economic
25 Development Center, Inc., shall:

- 26 (1) By January 15, 2006, and more frequently as requested, report to the
27 Joint Legislative Commission on Governmental Operations and the
28 Fiscal Research Division the following information:
29 a. State fiscal year 2004-2005 program activities, objectives, and
30 accomplishments;
31 b. State fiscal year 2004-2005 itemized expenditures and fund
32 sources;
33 c. State fiscal year 2005-2006 planned activities, objectives, and
34 accomplishments, including actual results through December
35 31, 2005; and
36 d. State fiscal year 2005-2006 estimated itemized expenditures
37 and fund sources, including actual expenditures and fund
38 sources through December 31, 2005.
39 (2) By January 15, 2007, and more frequently as requested, report to the
40 Joint Legislative Commission on Governmental Operations and the
41 Fiscal Research Division the following information:
42 a. State fiscal year 2005-2006 program activities, objectives, and
43 accomplishments;
44 b. State fiscal year 2005-2006 itemized expenditures and fund
45 sources;
46 c. State fiscal year 2006-2007 planned activities, objectives, and
47 accomplishments, including actual results through December
48 31, 2006; and
49 d. State fiscal year 2006-2007 estimated itemized expenditures
50 and fund sources, including actual expenditures and fund
51 sources through December 31, 2006.
52 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor
53 a financial statement in the form and on the schedule prescribed by the

1 State Auditor. The financial statements must be audited in accordance
2 with standards prescribed by the State Auditor to assure that State
3 funds are used for the purposes provided by law.

- 4 (4) Provide to the Fiscal Research Division a copy of the annual audited
5 financial statement required in subdivision (3) of this subsection within
6 30 days of issuance of the statement.

7 **SECTION 13.13.(c)** No funds appropriated under this act shall be released
8 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)
9 of this section if the Center has any overdue tax debts, as that term is defined in
10 G.S. 105-243.1, at the federal or State level.

11 **PART XIV. JUDICIAL DEPARTMENT**

12 Requested by: Representatives Kiser, Haire

13 **ESTABLISH CONFERENCE OF CLERKS OF SUPERIOR COURT**

14 **SECTION 14.1.(a)** Chapter 7A of the General Statutes is amended by
15 adding a new Subchapter to read:

16 **"SUBCHAPTER XV. CONFERENCE OF CLERKS OF SUPERIOR COURT.**

17 **"Article 63.**

18 **"Conference of Clerks of Superior Court.**

19 **"§ 7A-805. Establishment and purpose.**

20 There is created the Conference of Clerks of Superior Court of North Carolina, of
21 which each clerk of superior court is a member. The purpose of the Conference is to
22 assist in improving the administration of justice in North Carolina by coordinating the
23 efforts of the various clerks of superior court, by assisting them in the administration of
24 their offices, and by exercising the powers and performing the duties provided for in
25 this Article.

26 **"§ 7A-806. Annual meetings; organization; election of officers.**

27 (a) Annual Meetings. – The Conference shall meet each summer and winter at a
28 time and place selected by the President of the Conference.

29 (b) Election of Officers. – Officers of the Conference are a President, two Vice
30 Presidents, a Secretary, a Treasurer, and other officers from among its membership that
31 the Conference may designate in its bylaws. Officers are elected for one-year terms at
32 the annual summer conference and take office on July 1 immediately following their
33 election.

34 (c) Executive Committee. – The Executive Committee of the Conference consists
35 of the President, the two Vice Presidents, the Secretary, the Treasurer, and seven other
36 members of the Conference. One of these seven members shall be the immediate past
37 president if there is one and that past president continues to be a member.

38 (d) Organization and Functioning; Bylaws. – The bylaws may provide for the
39 organization and functioning of the Conference, including the powers and duties of its
40 officers and committees. The bylaws shall state the number of members required to
41 constitute a quorum at any meeting of the Conference or the Executive Committee. The
42 bylaws shall set out the procedure for amending the bylaws.

43 (e) Calling Meetings; Duty to Attend. – The President or the Executive
44 Committee may call a meeting of the Conference upon 10 days' notice to the members,
45 except upon written waiver of notice signed by at least three-fourths of the members. A
46 member should attend each meeting of the Conference and the Executive Committee of
47 which he is given notice. Members are entitled to reimbursement for travel and
48 subsistence expenses at the rate applicable to State employees.

49 **"§ 7A-807. Powers of Conference.**

50 (a) The Conference may:

- (1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.
- (2) Develop advisory manuals to assist in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.
- (3) Work with the cooperation of the Administrative Office of the Courts and the Institute of Government of the School of Government at UNC-Chapel Hill to provide education and training programs for clerks and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"§ 7A-808. Executive secretary; clerical support.

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

SECTION 14.1.(b) The organizational meeting of the Conference of Clerks of Superior Court shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office July 1, 2006.

Requested by: Representatives Kiser, Haire, Goodwin

DIVIDE DISTRICT COURT DISTRICT 20 INTO 20A AND 20B AND REALIGN SUPERIOR COURT DISTRICTS 20A AND 20B

SECTION 14.2.(a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson,	1

1			part of Edgecombe,	
2			see subsection (b))	
3	First	7C	(part of Wilson,	1
4			part of Edgecombe, see	
5			subsection (b))	
6	Second	8A	Lenoir and Greene	1
7	Second	8B	Wayne	1
8	Third	9	Franklin, Granville,	2
9			Vance, Warren	
10	Third	9A	Person, Caswell	1
11	Third	10A	(part of Wake,	2
12			see subsection (b))	
13	Third	10B	(part of Wake,	2
14			see subsection (b))	
15	Third	10C	(part of Wake,	1
16			see subsection (b))	
17	Third	10D	(part of Wake,	1
18			see subsection (b))	
19	Fourth	11A	Harnett, Lee	1
20	Fourth	11B	Johnston	1
21	Fourth	12A	(part of Cumberland,	1
22			see subsection (b))	
23	Fourth	12B	(part of Cumberland,	1
24			see subsection (b))	
25	Fourth	12C	(part of Cumberland,	2
26			see subsection (b))	
27	Fourth	13	Bladen, Brunswick,	2
28			Columbus	
29	Third	14A	(part of Durham,	1
30			see subsection (b))	
31	Third	14B	(part of Durham,	3
32			see subsection (b))	
33	Third	15A	Alamance	2
34	Third	15B	Orange, Chatham	2
35	Fourth	16A	Scotland, Hoke	1
36	Fourth	16B	Robeson	2
37	Fifth	17A	Rockingham	2
38	Fifth	17B	Stokes, Surry	2
39	Fifth	18A	(part of Guilford,	1
40			see subsection (b))	
41	Fifth	18B	(part of Guilford,	1
42			see subsection (b))	
43	Fifth	18C	(part of Guilford,	1
44			see subsection (b))	
45	Fifth	18D	(part of Guilford,	1
46			see subsection (b))	
47	Fifth	18E	(part of Guilford,	1
48			see subsection (b))	
49	Sixth	19A	Cabarrus	1
50	Fifth	19B	Montgomery, Randolph	1
51	Sixth	19C	Rowan	1
52	Fifth	19D	Moore	1
53	Sixth	20A	Anson, <u>Richmond</u>	<u>± 2</u>

1			Richmond Stanly	
2	Sixth	20B	Stanly, Union	2 1
3	Fifth	21A	(part of Forsyth,	1
4			see subsection (b))	
5	Fifth	21B	(part of Forsyth,	1
6			see subsection (b))	
7	Fifth	21C	(part of Forsyth,	1
8			see subsection (b))	
9	Fifth	21D	(part of Forsyth,	1
10			see subsection (b))	
11	Sixth	22	Alexander, Davidson,	3
12			Davie, Iredell	
13	Fifth	23	Alleghany, Ashe,	1
14			Wilkes, Yadkin	
15	Eighth	24	Avery, Madison,	2
16			Mitchell, Watauga, Yancey	
17	Seventh	25A	Burke, Caldwell	2
18	Seventh	25B	Catawba	2
19	Seventh	26A	(part of Mecklenburg,	2
20			see subsection (b))	
21	Seventh	26B	(part of Mecklenburg,	3
22			see subsection (b))	
23	Seventh	26C	(part of Mecklenburg,	2
24			see subsection (b))	
25	Seventh	27A	Gaston	2
26	Seventh	27B	Cleveland, Lincoln	2
27	Eighth	28	Buncombe	2
28	Eighth	29	Henderson,	2
29			McDowell, Polk, Rutherford,	
30			Transylvania	
31	Eighth	30A	Cherokee, Clay,	1
32			Graham, Macon, Swain	
33	Eighth	30B	Haywood, Jackson	1."

34 **SECTION 14.2.(b)** The superior court judgeship established for District
 35 20A by subsection (a) of this section shall be filled by the judge currently serving
 36 District 20B who resides in Stanly County. That judge's current term expires on
 37 December 31, 2006. No election shall be held in 2006 for that judge's seat, and that
 38 judge shall serve until a successor is elected in the 2008 general election, in order to
 39 provide for unstaggered terms for multiple judgeships in the same district.

40 **SECTION 14.2.(c)** G.S. 7A-133(a) reads as rewritten:

41 "(a) Each district court district shall have the numbers of judges as set forth in the
 42 following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell

1			Hyde
2			Washington
3	3A	5	Pitt
4	3B	5	Craven
5			Pamlico
6			Carteret
7	4	8	Sampson
8			Duplin
9			Jones
10			Onslow
11	5	8	New Hanover
12			Pender
13	6A	2	Halifax
14	6B	3	Northampton
15			Bertie
16			Hertford
17	7	7	Nash
18			Edgecombe
19			Wilson
20	8	6	Wayne
21			Greene
22			Lenoir
23	9	4	Granville
24			(part of Vance
25			see subsection (b))
26			Franklin
27	9A	2	Person
28			Caswell
29	9B	2	Warren
30			(part of Vance
31			see subsection (b))
32	10	15	Wake
33	11	8	Harnett
34			Johnston
35			Lee
36	12	9	Cumberland
37	13	6	Bladen
38			Brunswick
39			Columbus
40	14	6	Durham
41	15A	4	Alamance
42	15B	4	Orange
43			Chatham
44	16A	3	Scotland
45			Hoke
46	16B	5	Robeson
47	17A	2	Rockingham
48	17B	4	Stokes
49			Surry
50	18	12	Guilford
51	19A	4	Cabarrus
52	19B	6	Montgomery
53			Moore

1			Randolph
2	19C	4	Rowan
3	20 <u>20A</u>	7 <u>4</u>	Stanly
4			Union
5			Anson
6			Richmond
7	<u>20B</u>	<u>3</u>	<u>Union</u>
8	21	9	Forsyth
9	22	9	Alexander
10			Davidson
11			Davie
12			Iredell
13	23	4	Alleghany
14			Ashe
15			Wilkes
16			Yadkin
17	24	4	Avery
18			Madison
19			Mitchell
20			Watauga
21			Yancey
22	25	8	Burke
23			Caldwell
24			Catawba
25	26	17	Mecklenburg
26	27A	6	Gaston
27	27B	4	Cleveland
28			Lincoln
29	28	6	Buncombe
30	29	7	Henderson
31			McDowell
32			Polk
33			Rutherford
34			Transylvania
35	30	5	Cherokee
36			Clay
37			Graham
38			Haywood
39			Jackson
40			Macon
41			Swain."

42 **SECTION 14.2.(d)** The four district court judgeships established for District
43 20A by subsection (c) of this section shall be filled by the district court judges from
44 current District 20 who reside in Anson, Stanly, and Richmond Counties. The term of
45 the judge living in Anson County expires the first Monday in December 2008. That
46 judge's successor shall be elected in the 2008 general election. The term of the judge
47 living in Stanly County expires the first Monday in December 2006. That judge's
48 successor shall be elected in the 2006 general election. The term of one of the judges
49 living in Richmond County expires the first Monday in December 2006. That judge's
50 successor shall be elected in the 2006 general election. The term of the other judge
51 living in Richmond County expires the first Monday in December 2008. That judge's
52 successor shall be elected in the 2008 general election.

1 **SECTION 14.2.(e)** The three district court judgeships established for
2 District 20B by subsection (c) of this section shall be filled by the district court judges
3 from current District 20 who reside in Union County. The terms of the three judges
4 living in Union County expire the first Monday in December 2008. Those judges'
5 successors shall be elected in the 2008 general election.

6 **SECTION 14.2.(f)** Subsections (a) and (b) of this section become effective
7 December 1, 2005, or the date upon which subsection (a) of this section is approved
8 under Section 5 of the Voting Rights Act of 1965, whichever is later. Subsections (c)
9 through (e) of this section become effective December 1, 2005, or the date upon which
10 subsection (c) of this section is approved under Section 5 of the Voting Rights Act of
11 1965, whichever is later.

12
13 Requested by: Representatives Kiser, Haire

14 **COLLECTION OF WORTHLESS CHECK FUNDS**

15 **SECTION 14.3.** Notwithstanding the provisions of G.S. 7A-308(c), the
16 Judicial Department may use any balance remaining in the Collection of Worthless
17 Checks Fund on June 30, 2005, for the purchase or repair of office or information
18 technology equipment during the 2005-2006 fiscal year. Prior to using any funds under
19 this section, the Judicial Department shall report to the Joint Legislative Commission on
20 Governmental Operations and the Chairs of the Senate and House of Representatives
21 Appropriations Subcommittees on Justice and Public Safety on the equipment to be
22 purchased or repaired and the reasons for the purchases.

23
24 Requested by: Representatives Kiser, Haire

25 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

26 **SECTION 14.4.** Funds appropriated to the Judicial Department in the
27 2005-2007 biennium for equipment and supplies shall be certified in a reserve account.
28 The Administrative Office of the Courts may transfer these funds to the appropriate
29 programs and between programs as the equipment priorities and supply consumptions
30 occur during the operating year. These funds shall not be expended for any other
31 purpose.

32
33 Requested by: Representatives Kiser, Haire

34 **STUDY ELECTRONIC PAYMENT**

35 **SECTION 14.5.** The Judicial Department shall study the feasibility of
36 implementing electronic and online payment options for court fees and other funds
37 collected by the courts. The study shall address the estimated costs and time frame for
38 implementing electronic payment as well as any necessary legislative changes. The
39 report shall specifically evaluate the feasibility and cost of requiring all court-ordered
40 payments to be entered into the Department's financial management system, and shall
41 provide options for ensuring that this data is entered, including information systems
42 enhancements that will allow fields to be automatically populated from the court
43 information system into the financial management system. The Judicial Department
44 shall report its findings as a result of the study to the Chairs of the Senate and House of
45 Representatives Appropriations Subcommittees on Justice and Public Safety by May 1,
46 2006.

47
48 Requested by: Representatives Kiser, Haire

49 **GRANT FUNDS**

50 **SECTION 14.6.** The Judicial Department shall use up to the sum of one
51 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
52 Department to provide the State match needed in order to receive grant funds. Prior to
53 using funds for this purpose, the Department shall report to the Chairs of the Senate and

1 House of Representatives Appropriations Subcommittees on Justice and Public Safety
2 and the Joint Legislative Commission on Governmental Operations on the grants to be
3 matched using these funds.

4
5 Requested by: Representatives Kiser, Haire

6 **INCREASE CHARGES FOR APPELLATE DIVISION REPORTS TO ACTUAL**
7 **COST**

8 **SECTION 14.7.** The Judicial Department shall charge the full cost of
9 production for all copies of the appellate division reports that are sold.

10
11 Requested by: Representatives Kiser, Haire

12 **NORTH CAROLINA STATE BAR FUNDS**

13 **SECTION 14.8.** Of the funds appropriated in the continuation budget as a
14 grant-in-aid to the North Carolina State Bar for the 2005-2007 biennium, the North
15 Carolina State Bar may in its discretion use up to the sum of five hundred one thousand
16 five hundred dollars (\$501,500) for the 2005-2006 fiscal year and up to the sum of five
17 hundred one thousand five hundred dollars (\$501,500) for the 2006-2007 fiscal year to
18 contract with the Center for Death Penalty Litigation to provide training, consultation,
19 brief banking, and other assistance to attorneys representing indigent capital defendants.
20 The Office of Indigent Defense Services shall report by February 1, 2006, to the Chairs
21 of the Senate and House Appropriations Subcommittees on Justice and Public Safety on
22 the activities funded by the grant-in-aid authorized by this section.

23
24 Requested by: Representatives Kiser, Haire

25 **WAKE COUNTY PUBLIC DEFENDER OFFICE FUNDS**

26 **SECTION 14.10.** Of the funds appropriated to the Judicial Department,
27 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
28 shall use up to the sum of two million three hundred thousand five hundred thirty-four
29 dollars (\$2,300,534) for the 2005-2006 fiscal year and the sum of two million one
30 hundred eighty-one thousand three hundred twenty-three dollars (\$2,181,323) for the
31 2006-2007 fiscal year to establish a public defender's office in the Tenth Defender
32 District, as authorized by Section 14.4(b) of S.L. 2004-126. The funds shall be used to
33 establish the public defender, 20 assistant public defenders, four investigators, one
34 administrative assistant II, and five legal assistants.

35
36 Requested by: Representatives Kiser, Haire

37 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

38 **SECTION 14.11.** The Judicial Department, Office of Indigent Defense
39 Services, may use up to the sum of one million sixty-nine thousand six hundred
40 forty-five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year
41 and up to the sum of one million twenty-three thousand one hundred thirty-five dollars
42 (\$1,023,135) in appropriated funds during the 2006-2007 fiscal year for the expansion
43 of existing offices currently providing legal services to the indigent population under the
44 oversight of the Office of Indigent Defense Services by creating up to 10 new attorney
45 positions and five new support staff positions. These funds may be used for salaries,
46 benefits, equipment, and related expenses. Prior to using funds for this purpose, the
47 Office of Indigent Defense Services shall report to the Chairs of the House and the
48 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
49 expansion.

50
51 Requested by: Representatives Kiser, Haire

52 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

1 **SECTION 14.12.** The Office of Indigent Defense Services shall report to the
 2 Chairs of the Senate and House of Representatives Appropriations Committees and the
 3 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
 4 Justice and Public Safety by March 1 of each year on:

- 5 (1) The volume and cost of cases handled in each district by assigned
 6 counsel or public defenders;
- 7 (2) Actions taken by the Office to improve the cost-effectiveness and
 8 quality of indigent defense, including the capital case program;
- 9 (3) Plans for changes in rules, standards, or regulations in the upcoming
 10 year; and
- 11 (4) Any recommended changes in law or funding procedures that would
 12 assist the Office in improving the management of funds expended for
 13 indigent defense services.

14 The Office shall also consult with the Conference of District Attorneys of
 15 North Carolina, the Conference of District Court Judges, and the Conference of
 16 Superior Court Judges in formulating proposals aimed at reducing future costs,
 17 including the possibility of decriminalizing minor traffic offenses, changing the way
 18 that criminal district court is scheduled, and reevaluating the handling of capital cases.
 19 The Office shall include these proposals in its reports during the 2005-2007 fiscal
 20 biennium.

21
 22 Requested by: Representatives Kiser, Haire

23 **CLARIFY THAT FEES PAID TO ATTORNEYS REPRESENTING INDIGENT**
 24 **CLIENTS SHALL BE FIXED IN ACCORDANCE WITH THE RULES**
 25 **ADOPTED BY THE OFFICE OF INDIGENT DEFENSE SERVICES AND**
 26 **MAY NOT BE SET AT HIGHER RATES WITHOUT THE APPROVAL OF**
 27 **THE OFFICE OF INDIGENT DEFENSE SERVICES**

28 **SECTION 14.13.** G.S. 7A-458 reads as rewritten:

29 **"§ 7A-458. Counsel fees.**

30 The fee to which an attorney who represents an indigent person is entitled shall be
 31 fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees
 32 shall be based on the factors normally considered in fixing attorneys' fees, such as the
 33 nature of the case, and the time, effort and responsibility involved. Fees shall not be set
 34 or ordered at rates higher than those established by the rules adopted under this section
 35 without the approval of the Office of Indigent Defense Services. Even if the trial,
 36 appeal, hearing or other proceeding is never held, preparation therefor is nevertheless
 37 compensable and, in capital cases and other extraordinary cases pending in superior
 38 court, a fee for services rendered and payment for expenses incurred may be allowed
 39 pending final determination of the case."
 40

41 Requested by: Representatives Kiser, Haire

42 **ESTABLISH PUBLIC DEFENDER'S OFFICE IN THE FIFTH DEFENDER**
 43 **DISTRICT**

44 **SECTION 14.14.(a)** G.S. 7A-498.7(a) reads as rewritten:

45 **"§ 7A-498.7. Public Defender Offices.**

46 (a) The following counties of the State are organized into the defender districts
 47 listed below, and in each of those defender districts an office of public defender is
 48 established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates,

1		Pasquotank, Perquimans
2	3A	Pitt
3	3B	Carteret
4	<u>5</u>	<u>New Hanover, Pender</u>
5	10	Wake
6	12	Cumberland
7	14	Durham
8	15B	Orange, Chatham
9	16A	Scotland, Hoke
10	16B	Robeson
11	18	Guilford
12	21	Forsyth
13	26	Mecklenburg
14	27A	Gaston
15	28	Buncombe

16
 17 After notice to, and consultation with, the affected district bar, senior resident superior
 18 court judge, and chief district court judge, the Commission on Indigent Defense
 19 Services may recommend to the General Assembly that a district or regional public
 20 defender office be established. A legislative act is required in order to establish a new
 21 office or to abolish an existing office."

22 **SECTION 14.14.(b)** Of the funds appropriated to the Judicial Department,
 23 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
 24 shall use up to the sum of one million three hundred eighty-five thousand five hundred
 25 eighty-four dollars (\$1,385,584) for the 2005-2006 fiscal year and up to the sum of one
 26 million three hundred eighty-five thousand five hundred eighty-four dollars
 27 (\$1,385,584) for the 2006-2007 fiscal year to establish a public defender's office in the
 28 Fifth Defender District, as established in this section. The funds shall be used to
 29 establish the public defender, 11 assistant public defenders, two investigators, and three
 30 support positions.

31
 32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 33 Michaux

34 **SUBSISTENCE EXPENSES OF SUPERIOR COURT JUDGES**

35 **SECTION 14.15.** G.S. 7A-44(a) reads as rewritten:

36 "(a) A judge of the superior court, regular or special, shall receive the annual
 37 salary set forth in the Current Operations Appropriations Act, and in addition shall be
 38 paid the same travel allowance as State employees generally by ~~G.S. 138-6(a)(1) and~~
 39 ~~(2), G.S. 138-6(a),~~ provided that no travel allowance be paid for travel within ~~his the~~
 40 judge's county of residence. ~~In addition, a judge of the superior court shall be allowed~~
 41 ~~seven thousand dollars (\$7,000) per year, payable monthly, in lieu of necessary~~
 42 ~~subsistence expenses while attending court or transacting official business at a place~~
 43 ~~other than in the county of his residence and in lieu of other professional expenses~~
 44 ~~incurred in the discharge of his official duties.~~ The Administrative Officer of the Courts
 45 may also reimburse superior court judges, in addition to the above funds for travel and
 46 subsistence, for travel and subsistence expenses incurred for professional education."
 47

48 Requested by: Representative Michaux

49 **REALLOCATION OF MEDIATION FUNDS**

50 **SECTION 14.16.** Of the funds appropriated to the Judicial Department for
 51 transfer to the community mediation centers for the 2005-2006 fiscal year, the sum of
 52 eighty-seven thousand two hundred twelve dollars (\$87,212) designated for Carolina

1 Dispute Settlement Services, Inc., to serve Durham County, shall be allocated to
 2 Women-in-Action for the Prevention of Violence and Its Causes, Inc.

3
 4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 5 Michaux, Haire, Culpepper, Frye, Sutton

6 **ESTABLISH A NEW DISTRICT COURT JUDGE IN DISTRICT 14, A NEW**
 7 **ASSISTANT DISTRICT ATTORNEY IN DISTRICT 14, AND A NEW**
 8 **ASSISTANT DISTRICT ATTORNEY IN DISTRICT 24**

9 SECTION 14.17.(a) G.S. 7A-133(a) reads as rewritten:

10 "(a) Each district court district shall have the numbers of judges as set forth in the
 11 following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	8	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b)) Franklin
9A	2	Person
9B	2	Caswell Warren (part of Vance see subsection (b))

1	10	15	Wake
2	11	8	Harnett
3			Johnston
4			Lee
5	12	9	Cumberland
6	13	6	Bladen
7			Brunswick
8			Columbus
9	14	6 7	Durham
10	15A	4	Alamance
11	15B	4	Orange
12			Chatham
13	16A	3	Scotland
14			Hoke
15	16B	5	Robeson
16	17A	2	Rockingham
17	17B	4	Stokes
18			Surry
19	18	12	Guilford
20	19A	4	Cabarrus
21	19B	6	Montgomery
22			Moore
23			Randolph
24	19C	4	Rowan
25	20	7	Stanly
26			Union
27			Anson
28			Richmond
29	21	9	Forsyth
30	22	9	Alexander
31			Davidson
32			Davie
33			Iredell
34	23	4	Alleghany
35			Ashe
36			Wilkes
37			Yadkin
38	24	4	Avery
39			Madison
40			Mitchell
41			Watauga
42			Yancey
43	25	8	Burke
44			Caldwell
45			Catawba
46	26	17	Mecklenburg
47	27A	6	Gaston
48	27B	4	Cleveland
49			Lincoln
50	28	6	Buncombe
51	29	7	Henderson
52			McDowell
53			Polk

Rutherford
 Transylvania
 Cherokee
 Clay
 Graham
 Haywood
 Jackson
 Macon
 Swain."

SECTION 14.17.(b) The Governor shall appoint the additional district court judge for District 14 authorized by subsection (a) of this section, and that judge's successor shall be elected in the 2006 general election for a four-year term commencing on the first Monday in December 2006.

SECTION 14.17.(c) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10
2	Beaufort, Hyde, Martin, Tyrrell, Washington	6
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	16
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	11
9A	Person, Caswell	4
10	Wake	31
11	Harnett, Johnston, Lee	14
12	Cumberland	18
13	Bladen, Brunswick, Columbus	11
14	Durham	13 14
15A	Alamance	8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	10
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	27
19A	Cabarrus	6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5

1	20	Anson, Richmond,	15
2		Stanly, Union	
3	21	Forsyth	17
4	22	Alexander, Davidson, Davie,	16
5		Iredell	
6	23	Alleghany, Ashe, Wilkes,	5
7		Yadkin	
8	24	Avery, Madison, Mitchell,	<u>4-5</u>
9		Watauga, Yancey	
10	25	Burke, Caldwell, Catawba	15
11	26	Mecklenburg	36
12	27A	Gaston	12
13	27B	Cleveland,	9
14		Lincoln	
15	28	Buncombe	11
16	29	Henderson, McDowell, Polk,	11
17		Rutherford, Transylvania	
18	30	Cherokee, Clay, Graham,	9
19		Haywood, Jackson, Macon,	
20		Swain."	

SECTION 14.17.(d) This section becomes effective October 1, 2005.

Requested by: Representatives Haire, Ross

STUDY WAKE COUNTY FAMILY COURT

SECTION 14.18. The Administrative Office of the Courts shall study the feasibility of establishing a family court in District Court District 10. The Administrative Office of the Courts shall report the results of its study to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2006.

Requested by: Representatives Kiser, Haire

JUVENILE RECIDIVISM REPORT

SECTION 14.19.(a) Chapter 164 of the General Statutes is amended by adding a new section to read:

"§ 164-48. Biennial report on juvenile recidivism.

The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, shall conduct biennial recidivism studies of juveniles in North Carolina. Each study shall be based upon a sample of juveniles adjudicated delinquent and document subsequent involvement in both the juvenile justice system and criminal justice system for at least two years following the sample adjudication. All State agencies shall provide data as requested by the Commission.

The Sentencing and Policy Advisory Commission shall report the results of the first recidivism study to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2007, and future reports shall be made by May 1 of each odd-numbered year."

SECTION 14.19.(b) The Sentencing and Policy Advisory Commission shall report on its progress in developing the biennial juvenile recidivism report mandated by G.S. 164-48, as enacted by subsection (a) of this section, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2006.

1 **SECTION 14.19.(c)** Article 33 of Chapter 7B of the General Statutes is
2 repealed.

3
4 Requested by: Representatives Kiser, Haire

5 **TRAVEL ALLOWANCE FOR APPELLATE JUDGES WHO RESIDE FIFTY**
6 **MILES OR MORE FROM RALEIGH**

7 **SECTION 14.20.(a)** G.S. 7A-10(b) reads as rewritten:

8 "(b) The Chief Justice and each of the associate justices shall receive the annual
9 salary provided in Current Operations Appropriations Act. Each justice is entitled to
10 reimbursement for travel and subsistence expenses at the rate allowed State employees
11 ~~generally~~generally, except that each justice who lives at least 50 miles from the City of
12 Raleigh shall be paid a weekly travel allowance for each week the justice travels to the
13 City of Raleigh from the justice's home for business of the court. The allowance shall be
14 calculated for each justice by multiplying the actual round-trip mileage from that
15 justice's home to the City of Raleigh by the rate-per-mile which is the business standard
16 mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27,
17 1993."

18 **SECTION 14.20.(b)** G.S. 7A-18(a) reads as rewritten:

19 "(a) The Chief Judge and each associate judge of the Court of Appeals shall
20 receive the annual salary provided in the Current Operations Appropriations Act. Each
21 judge is entitled to reimbursement for travel and subsistence expenses at the rate
22 allowed State employees ~~generally~~generally, except that each judge who lives at least
23 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week
24 the judge travels to the City of Raleigh from the judge's home for business of the court.
25 The allowance shall be calculated for each judge by multiplying the actual round-trip
26 mileage from that judge's home to the City of Raleigh by the rate-per-mile which is the
27 business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51,
28 December 27, 1993."

29 **SECTION 14.20.(c)** This section becomes effective January 1, 2006.

30
31 Requested by: Representatives Kiser, Haire

32 **REIMBURSEMENT FOR USE OF PERSONAL VEHICLES**

33 **SECTION 14.21.** Notwithstanding G.S. 138-6(a)(1), the Judicial
34 Department, during the 2005-2007 fiscal biennium, may elect to establish a per-mile
35 reimbursement rate for transportation by privately owned vehicles at a rate less than the
36 business standard mileage rate set by the Internal Revenue Service.

37
38 **PART XV. DEPARTMENT OF JUSTICE**

39
40 Requested by: Representatives Kiser, Haire

41 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE**
42 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

43 **SECTION 15.1.(a)** Assets transferred to the Departments of Justice,
44 Correction, and Crime Control and Public Safety during the 2005-2007 biennium
45 pursuant to applicable federal law shall be credited to the budgets of the respective
46 departments and shall result in an increase of law enforcement resources for those
47 departments. The Departments of Justice, Correction, and Crime Control and Public
48 Safety shall report to the Joint Legislative Commission on Governmental Operations
49 upon receipt of the assets and, before using the assets, shall report on the intended use of
50 the assets and the departmental priorities on which the assets may be expended.

51 **SECTION 15.1.(b)** The General Assembly finds that the use of assets
52 transferred pursuant to federal law for new personnel positions, new projects,
53 acquisition of real property, repair of buildings where the repair includes structural

1 change, and construction of or additions to buildings may result in additional expenses
2 for the State in future fiscal periods. Therefore, the Department of Justice, the
3 Department of Correction, and the Department of Crime Control and Public Safety are
4 prohibited from using these assets for such purposes without the prior approval of the
5 General Assembly.

6 **SECTION 15.1.(c)** Nothing in this section prohibits North Carolina law
7 enforcement agencies from receiving funds from the United States Department of
8 Justice, the United States Department of the Treasury, and the United States Department
9 of Health and Human Services.

10
11 Requested by: Representatives Kiser, Haire

12 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING**
13 **BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

14 **SECTION 15.2.** The Private Protective Services and Alarm Systems
15 Licensing Boards shall pay the appropriate State agency for the use of physical facilities
16 and services provided to those Boards by the State.

17
18 Requested by: Representatives Kiser, Haire

19 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

20 **SECTION 15.3.** Client departments, agencies, and boards shall reimburse
21 the Department of Justice for reasonable court fees, attorney travel and subsistence
22 costs, and other costs directly related to litigation in which the Department of Justice is
23 representing the department, agency, or board.

24
25 Requested by: Representatives Kiser, Haire

26 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**
27 **REPRESENTATION**

28 **SECTION 15.4.** The Department of Justice shall be reimbursed by the
29 Board of Governors of The University of North Carolina for two Attorney III positions
30 to provide legal representation to The University of North Carolina System.

31
32 Requested by: Representatives Kiser, Haire

33 **REPORT ON CRIMINAL RECORD CHECKS CONDUCTED FOR**
34 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
35 **CRIMINAL RECORD CHECKS**

36 **SECTION 15.5.(a)** The Department of Justice shall report by January 15
37 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
38 of the Senate and House of Representatives Appropriations Committees, and the Chairs
39 of the Senate and House of Representatives Appropriations Subcommittees on Justice
40 and Public Safety on the receipts, costs for, and number of criminal record checks
41 performed in connection with applications for concealed weapons permits. The report
42 by the Department of Justice shall also include information on the number of
43 applications received and approved for firearms safety courses.

44 **SECTION 15.5.(b)** The Office of State Budget and Management, in
45 consultation with the Department of Justice, shall study the feasibility of adjusting the
46 fees charged for criminal record checks conducted by the Division of Criminal
47 Information of the Department of Justice as a result of the increase in receipts from
48 criminal record checks. The study shall include an assessment of the Division's
49 operational, personnel, and overhead costs related to providing criminal record checks
50 and how those costs have changed since the prior fiscal year. The Office of State Budget
51 and Management shall report its findings and recommendations to the Chairs of the
52 Senate and House of Representatives Appropriations Committees, the Chairs of the

1 Senate and House of Representatives Appropriations Subcommittees on Justice and
2 Public Safety, and the Fiscal Research Division on or before March 1, 2006.

3
4 Requested by: Representatives Kiser, Haire

5 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
6 **DISBURSED**

7 **SECTION 15.6.** The North Carolina Legal Education Assistance Foundation
8 shall report by March 1 of each year to the Joint Legislative Commission on
9 Governmental Operations on the expenditure of State funds, the purpose of the
10 expenditures, the number of attorneys receiving funds, the average award amount, the
11 average student loan amount, the number of attorneys on the waiting list, and the
12 average number of years for which attorneys receive loan assistance.

13
14 Requested by: Representatives Kiser, Haire

15 **REDUCE BACKLOG OF RAPE KITS**

16 **SECTION 15.7.(a)** Of the funds appropriated by this act to the Department
17 of Justice, the sum of two hundred fifty thousand dollars (\$250,000) in recurring funds
18 and the sum of two hundred fifty thousand dollars (\$250,000) in nonrecurring funds for
19 the 2005-2006 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000)
20 in recurring funds for the 2006-2007 fiscal year shall be used to contract with private
21 entities to reduce the backlog of rape kits in storage in local law enforcement agencies
22 and to expedite other forensic DNA analysis. The Department shall contract with
23 private entities to analyze bodily fluids, DNA evidence, as "DNA" is defined in
24 G.S. 15A-266.2, or both, in cases in which a suspect has not been identified. The
25 Department shall maximize the use of federal grant funds to expedite the elimination of
26 the backlog.

27 **SECTION 15.7.(b)** The Department of Justice shall report, on or before
28 February 1, 2006, and annually thereafter to the Chairs of the House of Representatives
29 and Senate Appropriations Subcommittees on Justice and Public Safety on the number
30 of rape kits analyzed by private entities and how many of those analyses resulted in
31 arrests or convictions. The Department shall also report on the number of rape kits
32 analyzed by the SBI Crime Lab, the amount of the remaining backlog, and the estimated
33 time left to eliminate the backlog.

34 **SECTION 15.7.(c)** Except as provided otherwise by this subsection, the
35 Department of Justice shall hire only nonsworn personnel to fill vacant positions in the
36 State Bureau of Investigation laboratory. A position may be filled with a sworn agent in
37 any of the following circumstances: (i) the position is a promotion for a sworn agent
38 who was employed at the State Bureau of Investigation laboratory prior to July 1, 2005,
39 (ii) the position is a forensic drug chemist position that has as a primary duty
40 "responding to clandestine methamphetamine laboratories," or (iii) the position is a
41 forensic impressions analyst position that has as a primary duty "responding to
42 clandestine methamphetamine laboratories."

43
44 Requested by: Representatives Kiser, Haire

45 **STUDY DNA TESTING AND ANALYSIS COSTS**

46 **SECTION 15.8.** The Office of State Budget and Management, in
47 consultation with the Department of Justice, shall study the cost of testing and analyzing
48 DNA samples. The study shall include all of the following: a determination of the unit
49 cost for analyzing a rape kit and a comparison of that cost with the unit cost for the
50 same analysis when performed by other labs, both public and private; a comparison of
51 the amount of funds and length of time required to eliminate the backlog of rape kits
52 using private labs versus the SBI crime lab; and a survey of the funding sources used by
53 other states for their DNA testing and analysis lab costs. The Office of State Budget and

1 Management shall report its findings and recommendations to the Chairs of the Senate
2 and House of Representatives Appropriations Committees, the Chairs of the Senate and
3 House of Representatives Appropriations Subcommittees on Justice and Public Safety,
4 and the Fiscal Research Division on or before March 1, 2006.

5
6 Requested by: Representative Haire

7 **STATEWIDE AUTOMATED FINGERPRINT SYSTEM REPLACEMENT**

8 **SECTION 15.9.** The Department of Justice shall continue to plan for the
9 upgrade and replacement of the North Carolina Statewide Automated Fingerprint
10 Identification System (SAFIS). Prior to any determination to pursue sole-source
11 procurement for this project, the Department of Justice shall issue a request for
12 proposals from qualified vendors on a competitive basis in order to evaluate economies
13 available to the State and options for the transfer of data to the new system. The
14 Department of Justice shall negotiate with the current vendor to develop an agreement
15 regarding maintenance of the current equipment until the new system becomes fully
16 operational.

17 By November 1, 2005, the Department of Justice shall provide a plan to the
18 Subcommittee for Justice and Public Safety of the Joint Legislative Commission on
19 Governmental Operations that shall include all of the following:

- 20 (1) A description of the system and project status report.
- 21 (2) The cost estimates for equipment replacement, maintenance, and
22 operating costs, including proposed sources of funding.
- 23 (3) The method of procurement.
- 24 (4) The time line for completion of the project.

25
26 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
27 **PREVENTION**

28
29 Requested by: Representatives Kiser, Haire

30 **S.O.S. ADMINISTRATIVE COST LIMITS**

31 **SECTION 16.1.** Of the funds appropriated to the Department of Juvenile
32 Justice and Delinquency Prevention in this act, not more than four hundred fifty
33 thousand dollars (\$450,000) for the 2005-2006 fiscal year and not more than four
34 hundred fifty thousand dollars (\$450,000) for the 2006-2007 fiscal year may be used to
35 administer the S.O.S. Program, to provide technical assistance to applicants and to local
36 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may
37 contract with appropriate public or nonprofit agencies to provide the technical
38 assistance, including training and related services.

39
40 Requested by: Representatives Kiser, Haire

41 **JCPC GRANT REPORTING AND CERTIFICATION**

42 **SECTION 16.2.(a)** On or before May 1 each year, the Department of
43 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative
44 Commission on Governmental Operations and the Appropriations Committees of the
45 Senate and House of Representatives a list of the recipients of the grants awarded, or
46 preapproved for award, from funds appropriated to the Department for local Juvenile
47 Crime Prevention Council grants. The list shall include for each recipient the amount of
48 the grant awarded, the membership of the local committee or council administering the
49 award funds on the local level, and a short description of the local services, programs, or
50 projects that will receive funds. The list shall also identify any programs that received
51 grant funds at one time but for which funding has been eliminated by the Department of
52 Juvenile Justice and Delinquency Prevention. A written copy of the list and other

1 information regarding the projects shall also be sent to the Fiscal Research Division of
2 the General Assembly.

3 **SECTION 16.2.(b)** Each county in which local programs receive Juvenile
4 Crime Prevention Council grant funds from the Department of Juvenile Justice and
5 Delinquency Prevention shall certify annually through its local council to the
6 Department that funds received are not used to duplicate or supplant other programs
7 within the county.

8
9 Requested by: Representatives Kiser, Haire

10 **REPORTS ON CERTAIN PROGRAMS**

11 **SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to
12 the Chairs of the Senate and House of Representatives Appropriations Subcommittees
13 on Justice and Public Safety by April 1 each year on the operation and the effectiveness
14 of its program in providing alternative dispositions and services to juveniles who have
15 been adjudicated delinquent or undisciplined. The report shall include information on:

- 16 (1) The source of referrals for juveniles.
- 17 (2) The types of offenses committed by juveniles participating in the
18 program.
- 19 (3) The amount of time those juveniles spend in the program.
- 20 (4) The number of juveniles who successfully complete the program.
- 21 (5) The number of juveniles who commit additional offenses after
22 completing the program.
- 23 (6) The program's budget and expenditures, including all funding sources.

24 **SECTION 16.3.(b)** The Juvenile Assessment Center shall report to the
25 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
26 Justice and Public Safety on the effectiveness of the Center by April 1 each year. The
27 report shall include information on the number of juveniles served and an evaluation of
28 the effectiveness of juvenile assessment plans and services provided as a result of these
29 plans. In addition, the report shall include information on the Center's budget and
30 expenditures, including all funding sources.

31 **SECTION 16.3.(c)** Communities in Schools shall report to the Chairs of the
32 Senate and House of Representatives Appropriations Subcommittees on Justice and
33 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
34 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
35 the Joint Legislative Education Oversight Committee by April 1 each year on the
36 operation and effectiveness of its program. The report shall include information on:

- 37 (1) The number of children served.
- 38 (2) The number of volunteers used.
- 39 (3) The impact on children who have received services from Communities
40 in Schools.
- 41 (4) The program's budget and expenditures, including all funding sources.

42 **SECTION 16.3.(d)** Project P.R.I.D.E. (Providing Regimented Instruction,
43 Drug Treatment, and Education) shall report to the Chairs of the Senate and House of
44 Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint
45 Legislative Commission on Governmental Operations, the Joint Legislative Corrections,
46 Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative
47 Education Oversight Committee by April 1 each year on the operation and the
48 effectiveness of its program. The report shall include information on the source of
49 referrals for juveniles, the types of offenses committed by juveniles participating in the
50 program, the amount of time those juveniles spend in the program, the number of
51 juveniles who successfully complete the program, and the number of juveniles who
52 commit additional offenses after completing the program. In addition, the report shall

1 include information on the program's budget and expenditures, including all funding
2 sources.

3
4 Requested by: Representatives Kiser, Haire

5 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

6 **SECTION 16.4.** The Department of Juvenile Justice and Delinquency
7 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
8 camp programs, the teen court programs, the program that grants funds to the local
9 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
10 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
11 multipurpose group homes. The teen court report shall include statistical information on
12 the number of juveniles served, the number and type of offenses considered by teen
13 courts, referral sources for teen courts, and the number of juveniles that become
14 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
15 program shall include information on:

- 16 (1) The expenditure of State appropriations on the program;
- 17 (2) The operations and the effectiveness of the program; and
- 18 (3) The number of juveniles served under the program.

19 In conducting the evaluation of each of these programs, the Department shall
20 consider whether participation in each program results in a reduction of court
21 involvement among juveniles. The Department shall also identify whether the programs
22 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
23 Department shall report the results of the evaluation to the Chairs of the House of
24 Representatives and Senate Appropriations Committees and the Chairs of the
25 Subcommittees on Justice and Public Safety of the House of Representatives and Senate
26 Appropriations Committees by March 1 of each year.

27
28 Requested by: Representatives Kiser, Haire

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

30 **SECTION 16.5.** Funds appropriated in this act to the Department of Juvenile
31 Justice and Delinquency Prevention for the 2005-2006 fiscal year may be used as
32 matching funds for the Juvenile Accountability Incentive Block Grants. If North
33 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
34 to be awarded, the Office of State Budget and Management and the Governor's Crime
35 Commission shall consult with the Department of Juvenile Justice and Delinquency
36 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
37 and Management, the Governor's Crime Commission, and the Department of Juvenile
38 Justice and Delinquency Prevention shall report to the Appropriations Committees of
39 the Senate and House of Representatives and the Joint Legislative Commission on
40 Governmental Operations prior to allocation of the federal funds. The report shall
41 identify the amount of funds to be received for the 2005-2006 fiscal year, the amount of
42 funds anticipated for the 2006-2007 fiscal year, and the allocation of funds by program
43 and purpose.

44
45 Requested by: Representatives Kiser, Haire

46 **IMPLEMENTATION OF TREATMENT STAFFING MODEL AT YOUTH**
47 **DEVELOPMENT CENTERS**

48 **SECTION 16.6.(a)** The Department of Juvenile Justice and Delinquency
49 Prevention shall report December 31, 2005, and quarterly thereafter during the
50 2005-2007 biennium to the Chairs of the Senate and House of Representatives
51 Appropriations Subcommittees on Justice and Public Safety and to the Joint
52 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment
53 staffing model being piloted at Samarkand and Stonewall Jackson Youth Development

1 Centers. The report shall include a list of total positions at each facility by job class,
2 whether the position is vacant or filled, whether positions were filled from internal
3 employees or new employees, and the training and certification status of each position.
4 The report shall also describe the nature of the treatment program, the criteria for
5 evaluating the program, and how the program is performing in comparison to these
6 criteria. The report shall also describe the training approach to be used to train staff in
7 using treatment methods in youth development centers and provide information on
8 current staff training and staff training planned for the next quarter. The Department
9 shall also develop indicators for evaluating staff performance once the model has been
10 implemented.

11 **SECTION 16.6.(b)** The Department of Juvenile Justice and Delinquency
12 Prevention shall report December 31, 2005, and quarterly thereafter during the
13 2005-2007 biennium to the Chairs of the Senate and House of Representatives
14 Appropriations Subcommittees on Justice and Public Safety on the implementation of
15 the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth
16 Development Centers. The Department shall identify the number of positions
17 reallocated to the new treatment job classes and the source of funding for those
18 positions.

19
20 Requested by: Representatives Kiser, Haire

21 **PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL**
22 **PROJECTS**

23 **SECTION 16.7.** The Department of Juvenile Justice and Delinquency
24 Prevention shall report each December 31, March 31, June 30, and September 30 of the
25 2005-2007 biennium to the Chairs of the Senate and House of Representatives
26 Appropriations Subcommittees on Justice and Public Safety and to the Joint
27 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
28 Department's progress in the planning, design, and construction of new youth
29 development centers. The report shall include:

- 30 (1) An overall project schedule for each new youth development center
31 showing the original estimated date for construction completion and
32 the original estimated date for occupancy by juvenile offenders,
33 compared to the latest projected dates.
34 (2) An explanation of significant delays in the schedule or any potential
35 cost increase.

36 The Office of State Construction and the Capital Improvement Section of the
37 Office of State Budget and Management shall assist the Department of Juvenile Justice
38 and Delinquency Prevention in the preparation of the report required by this section.
39

40 Requested by: Representatives Kiser, Haire, Michaux, Clary

41 **JCPC GRANTS TO PREVENT GANG VIOLENCE**

42 **SECTION 16.8.(a)** Of the funds appropriated in this act to the Department
43 of Juvenile Justice and Delinquency Prevention for Juvenile Crime Prevention Council
44 grants, the sum of three million dollars (\$3,000,000) shall be used to provide two-year
45 grants to Juvenile Crime Prevention Councils to use for street gang violence prevention
46 and intervention programs. The Department, in conjunction with the Governor's Crime
47 Commission, shall develop a competitive grant award process that gives consideration
48 to programs in rural areas, geographical representation, collaboration among counties,
49 and programs that involve law enforcement agencies or the courts. The criteria shall
50 include a matching requirement of twenty-five percent (25%), one-half of which may be
51 in in-kind contributions, and presentation of a written plan for the services to be
52 provided by the funds. Juvenile Crime Prevention Councils shall allocate the funds to

1 public and private entities or agencies for programs that meet the criteria established by
2 the Department.

3 No individual program grant may exceed one hundred thousand dollars
4 (\$100,000).

5 **SECTION 16.8.(b)** The Department of Juvenile Justice and Delinquency
6 Prevention shall report to the Chairs of the House of Representatives and Senate
7 Appropriations Committees and the Chairs of the Appropriations Subcommittees on
8 Justice and Public Safety of the House of Representatives and the Senate on the total
9 number of grants awarded, a description of each grantee's program, and the amount
10 awarded to each grantee. The Department shall submit its report by April 1, 2006.
11

12 Requested by: Representatives Kiser, Haire, Earle

13 **STUDY OF LOCAL DETENTION CENTERS**

14 **SECTION 16.9.** The Joint Legislative Corrections, Crime Control, and
15 Juvenile Justice Oversight Committee ("Committee") shall study the four juvenile
16 detention centers located in Durham, Guilford, Forsyth, and Mecklenburg Counties that
17 are operated by the counties. For each of the facilities, the review shall include:

- 18 (1) Recent admission trends and projections of future population.
- 19 (2) The offense history and assessed needs of the population.
- 20 (3) Whether staffing levels are appropriate for the number and types of
21 offenders housed in the facility.
- 22 (4) Whether the center has adequate housing capacity.
- 23 (5) The cost to operate the center, including the formula for allocating
24 costs between the county that operates the facility and the State.
- 25 (6) The feasibility of the State operating the local detention center, if
26 recommended by one or more of the counties that operate the facility.
- 27 (7) Determine the repair and renovation needs and estimate the cost of any
28 repairs or renovations.
- 29 (8) The estimated cost to plan, design, and construct new detention
30 centers, if appropriate.

31 The Committee shall conduct the study in conjunction with the local
32 detention centers, the Office of State Budget and Management, the Office of State
33 Construction of the Department of Administration, and the Department of Juvenile
34 Justice and Delinquency Prevention.

35 The Committee shall report its findings to the Chairs of the House of
36 Representatives and Senate Appropriations Committees and the Chairs of the
37 Appropriations Subcommittees on Justice and Public Safety of the House of
38 Representatives and the Senate upon the convening of the 2006 Regular Session of the
39 2005 General Assembly.
40

41 Requested by: Representative Haire

42 **PLAN, DESIGN, AND CONSTRUCTION OF YOUTH DEVELOPMENT** 43 **CENTERS**

44 **SECTION 16.10.** The Department of Juvenile Justice and Delinquency
45 Prevention and the Department of Administration, State Construction Office, shall
46 continue the planning, design, and construction of up to 224 youth development center
47 beds. The 224 youth development center beds shall be allocated as follows: two 32-bed
48 facilities, one 64-bed facility, and one 96-bed facility. The 64-bed facility shall be
49 located in Guilford County, and one of the 32-bed facilities shall be located in Chatham
50 County. The remainder of the facilities shall be located at sites to be chosen by the
51 Secretary of the Department of Juvenile Justice and Delinquency Prevention.
52

53 **PART XVII. DEPARTMENT OF CORRECTION**

1
2 Requested by: Representatives Kiser, Haire

3 **FEDERAL GRANT REPORTING**

4 **SECTION 17.1.** The Department of Correction, the Department of Justice,
5 the Department of Crime Control and Public Safety, the Judicial Department, and the
6 Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of
7 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
8 of the Senate and House of Representatives Appropriations Committees, and the Chairs
9 of the Senate and House of Representatives Appropriations Subcommittees on Justice
10 and Public Safety on federal grant funds received or preapproved for receipt by those
11 departments. The report shall include information on the amount of grant funds received
12 or preapproved for receipt by each department, the use of the funds, the State match
13 expended to receive the funds, and the period to be covered by each grant. If the
14 department intends to continue the program beyond the end of the grant period, the
15 department shall report on the proposed method for continuing the funding of the
16 program at the end of the grant period. Each department shall also report on any
17 information it may have indicating that the State will be requested to provide future
18 funding for a program presently supported by a local grant.

19
20 Requested by: Representatives Kiser, Haire

21 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY**
22 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE**
23 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

24 **SECTION 17.2.** The Department of Correction may use funds available to
25 the Department for the 2005-2007 biennium to pay the sum of forty dollars (\$40.00) per
26 day as reimbursement to counties for the cost of housing convicted inmates, parolees,
27 and post-release supervisees awaiting transfer to the State prison system, as provided in
28 G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission
29 on Governmental Operations, the Joint Legislative Corrections, Crime Control, and
30 Juvenile Justice Oversight Committee, the Chairs of the Senate and House of
31 Representatives Appropriations Committees, and the Chairs of the Senate and House of
32 Representatives Appropriations Subcommittees on Justice and Public Safety on the
33 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its
34 progress in reducing the jail backlog.

35
36 Requested by: Representatives Kiser, Haire

37 **HOLIDAY PAY FOR DEPARTMENT OF CORRECTION STAFF**

38 **SECTION 17.3.** Holiday pay for Department of Correction staff entitled to
39 holiday pay shall be one hundred fifty percent (150%) of regular pay during the
40 2005-2007 biennium, except that the Department of Correction may use funds available
41 to pay up to one hundred seventy-five percent (175%) of regular pay for holiday pay
42 during the 2005-2007 biennium.

43
44 Requested by: Representatives Kiser, Haire

45 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

46 **SECTION 17.4.(a)** G.S. 143B-262.5 reads as rewritten:

47 **"§ 143B-262.5. Security Staffing.**

48 (a) ~~The Department of Correction shall conduct security staffing post audits of~~
49 ~~each prison at least biannually, the first such audit to be completed during the~~
50 ~~2002-2003 fiscal year. The initial post audit shall be conducted jointly by Department~~
51 ~~staff and a consultant, external to the Department, and shall include analysis of the~~
52 ~~staffing levels assigned for supervision of correctional officers. conduct:~~

53 (1) On-site postaudits of every prison at least once every three years;

1 (2) Regular audits of postaudit charts through the automated postaudit
2 system; and

3 (3) Other staffing audits as necessary.

4 (b) The Department of Correction shall update the security staffing relief formula
5 biannually, the first update to be completed during the 2002-2003 fiscal year, at least
6 every three years. Each update shall include a review of all annual training requirements
7 for security staff to determine which of these requirements should be mandatory and the
8 appropriate frequency of the training. The Department shall survey other states to
9 determine which states use a vacancy factor in their staffing relief formulas."

10 **SECTION 17.4.(b)** The Department of Correction shall begin
11 implementation of the 2004-2005 postaudit by July 1, 2005, and provide a progress
12 report by October 1, 2005, to the Senate and House of Representatives Appropriations
13 Subcommittees on Justice and Public Safety on the implementation of the new postaudit
14 at each prison.

15 **SECTION 17.4.(c)** The Department of Correction shall report on the final
16 implementation of the 2004-2005 postaudit of each prison to the Senate and House of
17 Representatives Appropriations Subcommittees on Justice and Public Safety by April 1,
18 2006. The report shall also include an update on the Department's progress in
19 implementing the staffing recommendations of the National Institute of Corrections,
20 including a status report on the implementation of a centralized postaudit control
21 system, the automation of leave records, and the survey of other states' use of a vacancy
22 factor in staffing relief formulas.

23
24 Requested by: Representatives Kiser, Haire

25 **USE OF CLOSED PRISON FACILITIES**

26 **SECTION 17.5.** In conjunction with the closing of prison facilities,
27 including small expensive prison units recommended for consolidation by the
28 Government Performance Audit Committee, the Department of Correction shall consult
29 with the county or municipality in which the unit is located, with the elected State and
30 local officials, and with State agencies about the possibility of converting that unit to
31 other use. The Department may also consult with any private for-profit or nonprofit firm
32 about the possibility of converting the unit to other use. In developing a proposal for
33 future use of each unit, the Department shall give priority to converting the unit to other
34 criminal justice use. Consistent with existing law and the future needs of the
35 Department of Correction, the State may provide for the transfer or the lease of any of
36 these units to counties, municipalities, State agencies, or private firms wishing to
37 convert them to other use. The Department of Correction may also consider converting
38 some of the units recommended for closing from one security custody level to another,
39 where that conversion would be cost-effective. A prison unit under lease to a county
40 pursuant to the provisions of this section for use as a jail is exempt for the period of the
41 lease from any of the minimum standards adopted by the Secretary of Health and
42 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that
43 would subject the unit to greater standards than those required of a unit of the State
44 prison system.

45 Prior to any transfer or lease of these units, the Department of Correction
46 shall report on the terms of the proposed transfer or lease to the Joint Legislative
47 Commission on Governmental Operations and the Joint Legislative Corrections, Crime
48 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall
49 also provide annual summary reports to the Joint Legislative Commission on
50 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
51 Juvenile Justice Oversight Committee on the conversion of these units to other use and
52 on all leases or transfers entered into pursuant to this section.

1 Requested by: Representatives Kiser, Haire

2 **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND**
3 **INMATE CLOTHING AND LAUNDRY SERVICES**

4 **SECTION 17.6.(a)** If the cost of providing food and health care to inmates
5 housed in the Division of Prisons is anticipated to exceed the continuation budget
6 amounts provided for that purpose in this act, the Department of Correction shall report
7 the reasons for the anticipated cost increase and the source of funds the Department
8 intends to use to cover those additional needs to the Joint Legislative Commission on
9 Governmental Operations, the Chairs of the Senate and House of Representatives
10 Appropriations Committees, and the Chairs of the Senate and House of Representatives
11 Appropriations Subcommittees on Justice and Public Safety.

12 **SECTION 17.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the
13 Department of Correction may use funds available during the 2005-2006 fiscal year for
14 the purchase of prescription drugs for inmates if expenditures are projected to exceed
15 the Department's inmate medical continuation budget for prescription drugs. The
16 Department shall consult with the Joint Legislative Commission on Governmental
17 Operations prior to exceeding the continuation budget amount.

18 **SECTION 17.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the
19 Department of Correction may use funds available during the 2005-2006 fiscal year for
20 the purchase of clothing and laundry services for inmates if expenditures are projected
21 to exceed the Department's budget for clothing and laundry services. The Department
22 shall consult with the Joint Legislative Commission on Governmental Operations prior
23 to exceeding the continuation budget amount.
24

25 Requested by: Representatives Kiser, Haire

26 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

27 **SECTION 17.7.(a)** The Department of Correction may convert contract
28 medical positions to permanent State medical positions if the Department can document
29 that the total savings generated will exceed the total cost of the new positions for each
30 facility. Where practical, the Department shall convert contract positions to permanent
31 positions by using existing vacancies in medical positions.

32 **SECTION 17.7.(b)** The Department of Correction shall report by April 1,
33 2006, to the Joint Legislative Commission on Governmental Operations and the Chairs
34 of the Senate and House of Representatives Appropriations Subcommittees on Justice
35 and Public Safety on all conversions made pursuant to this section, by type of position
36 and location, and on the savings generated at each correctional facility.
37

38 Requested by: Representatives Kiser, Haire

39 **LIMIT USE OF OPERATIONAL FUNDS**

40 **SECTION 17.8.** Funds appropriated in this act to the Department of
41 Correction for operational costs for additional facilities shall be used for personnel and
42 operating expenses set forth in the budget approved by the General Assembly in this act.
43 These funds shall not be expended for any other purpose, except as provided for in this
44 act, and shall not be expended for additional prison personnel positions until the new
45 facilities are within 120 days of projected completion, except for certain management,
46 security, and support positions necessary to prepare the facility for opening, as
47 authorized in the budget approved by the General Assembly.
48

49 Requested by: Representatives Kiser, Haire

50 **FEDERAL GRANT MATCHING FUNDS**

51 **SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the
52 Department of Correction may use up to the sum of seven hundred fifty thousand
53 dollars (\$750,000) from funds available to the Department to provide the State match

1 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 Senate and House of Representatives
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
5 funds.

6
7 Requested by: Representatives Kiser, Haire

8 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

9 **SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the
10 Department of Correction may use funds available during the 2005-2006 fiscal year for
11 expenses for computer/data processing services if expenditures exceed the Department's
12 continuation budget amount for those services. The Department shall report to the Joint
13 Legislative Commission on Governmental Operations prior to exceeding the
14 continuation budget amount.

15
16 Requested by: Representatives Kiser, Haire

17 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**
18 **CREWS**

19 **SECTION 17.11.(a)** Of funds appropriated to the Department of
20 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be
21 transferred by the Department of Transportation to the Department of Correction during
22 the 2005-2007 biennium for the actual costs of highway-related labor performed by
23 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made
24 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The
25 Department of Transportation may use funds appropriated by this act to pay an
26 additional amount exceeding the ten million dollars (\$10,000,000), but those payments
27 shall be subject to negotiations among the Department of Transportation, the
28 Department of Correction, and the Office of State Budget and Management prior to
29 payment by the Department of Transportation.

30 **SECTION 17.11.(b)** The Department of Correction may use up to 39 work
31 crews for Department of Transportation litter control projects. The Department of
32 Transportation shall transfer at least one million three hundred thousand dollars
33 (\$1,300,000) per year from the Highway Fund to the Department of Correction during
34 the 2005-2007 biennium to cover the cost of those work crews. Should the two
35 departments determine that the actual cost of operating 39 work crews exceeds that
36 amount, the Department of Transportation shall transfer an additional amount as agreed
37 upon by the two departments and the Office of State Budget and Management.

38
39 Requested by: Representatives Kiser, Haire

40 **INMATE CUSTODY AND CLASSIFICATION SYSTEM**

41 **SECTION 17.12.(a)** The Department of Correction shall review the current
42 inmate custody and classification system, with the assistance of consultants from the
43 National Institute of Corrections. The review shall focus primarily on the custody
44 classification instrument used to assess inmate custody and the policies and practice of
45 overriding the assessed custody level. The review should focus particularly on
46 determining whether the instrument is effective in predicting custody classification,
47 analyzing the current override rate by custody level, and assessing any need for changes
48 in the override policy. The Department should request assistance from the National
49 Institute of Corrections in obtaining (i) a comparison between Department of Correction
50 override rates and policies and those of other states; (ii) suggestions on an acceptable
51 override rate for classification systems; and (iii) any recommendations the NIC may
52 have on the Department's custody classification instrument and override policy.

1 **SECTION 17.12.(b)** The Department shall report its findings and
2 recommendations to the Chairs of the House and Senate Appropriations Subcommittees
3 on Justice and Public Safety no later than April 15, 2006.

4
5 Requested by: Representatives Kiser, Haire

6 **EXTEND LIMITS OF CONFINEMENT/TERMINALLY ILL AND**
7 **PERMANENTLY AND TOTALLY DISABLED INMATES**

8 **SECTION 17.13.** G.S. 148-4 reads as rewritten:

9 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
10 **confinement.**

11 The Secretary of Correction shall have control and custody of all prisoners serving
12 sentence in the State prison system, and such prisoners shall be subject to all the rules
13 and regulations legally adopted for the government thereof. Any sentence to
14 imprisonment in any unit of the State prison system, or to jail to be assigned to work
15 under the State Department of Correction, shall be construed as a commitment, for such
16 terms of imprisonment as the court may direct, to the custody of the Secretary of
17 Correction or his authorized representative, who shall designate the places of
18 confinement within the State prison system where the sentences of all such persons shall
19 be served. The authorized agents of the Secretary shall have all the authority of peace
20 officers for the purpose of transferring prisoners from place to place in the State as their
21 duties might require and for apprehending, arresting, and returning to prison escaped
22 prisoners, and may be commissioned by the Governor, either generally or specially, as
23 special officers for returning escaped prisoners or other fugitives from justice from
24 outside the State, when such persons have been extradited or voluntarily surrendered.
25 Employees of departments, institutions, agencies, and political subdivisions of the State
26 hiring prisoners to perform work outside prison confines may be designated as the
27 authorized agents of the Secretary of Correction for the purpose of maintaining control
28 and custody of prisoners who may be placed under the supervision and control of such
29 employees, including guarding and transferring such prisoners from place to place in the
30 State as their duties might require, and apprehending and arresting escaped prisoners
31 and returning them to prison. The governing authorities of the State prison system are
32 authorized to determine by rules and regulations the manner of designating these agents
33 and placing prisoners under their supervision and control, which rules and regulations
34 shall be established in the same manner as other rules and regulations for the
35 government of the State prison system.

36 The Secretary of Correction may extend the limits of the place of confinement of a
37 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
38 authorizing him, under prescribed conditions, to leave the confines of that place
39 unaccompanied by a custodial agent for a prescribed period of time to

- 40 (1) Contact prospective employers; or
41 (2) Secure a suitable residence for use when released on parole or upon
42 discharge; or
43 (3) Obtain medical services not otherwise available; or
44 (4) Participate in a training program in the community; or
45 (5) Visit or attend the funeral of a spouse, child (including stepchild,
46 adopted child or child as to whom the prisoner, though not a natural
47 parent, has acted in the place of a parent), parent (including a person
48 though not a natural parent, has acted in the place of a parent), brother,
49 or sister; or
50 (6) Participate in community-based programs of rehabilitation, including,
51 but not limited to the existing community volunteer and home-leave
52 programs, pre-release and after-care programs as may be provided for
53 and administered by the Secretary of Correction and other programs

- 1 determined by the Secretary of Correction to be consistent with the
 2 prisoner's rehabilitation and return to society; or
 3 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
 4 county departments of social services are expected to cooperate with
 5 officials at the North Carolina Correctional Center for Women to
 6 coordinate prenatal care, financial services, and placement of the child;
 7 or
 8 (8) Receive palliative care, only in the case of a terminally ill inmate or a
 9 permanently and totally disabled inmate that the Secretary finds no
 10 longer poses ~~a threat to society, a significant public safety risk,~~ and
 11 only after consultation with any victims of the inmate or the victims'
 12 families. For purposes of this subdivision, the term "terminally ill"
 13 describes an inmate who, as determined by a licensed physician, has an
 14 incurable condition caused by illness or disease that was unknown at
 15 the time of sentencing and was not diagnosed upon entry to prison, that
 16 will likely produce death within 12 months-six months, and that is so
 17 debilitating that it is highly unlikely that the inmate poses a significant
 18 public safety risk. For purposes of this subdivision, the term
 19 "permanently and totally disabled" describes an inmate who, as
 20 determined by a licensed physician, suffers from permanent and
 21 irreversible physical incapacitation as a result of an existing physical
 22 or medical ~~condition.~~ condition that was unknown at the time of
 23 sentencing and was not diagnosed upon entry to prison, and that is so
 24 incapacitating that it is highly unlikely that the inmate poses a
 25 significant public safety risk. The Department's medical director shall
 26 notify the Secretary immediately when an inmate has been classified
 27 as terminally ill and shall provide regular reports on inmates classified
 28 as permanently and totally disabled. The Secretary shall act
 29 expeditiously in determining whether to extend the limits of
 30 confinement under this subdivision upon receiving notice that an
 31 inmate has been classified as terminally ill or permanently and totally
 32 disabled and, in the case of a terminally ill inmate, the Secretary shall
 33 make a good faith effort to reach a determination within 30 days of
 34 receiving notice of the inmate's terminal condition.

35 The willful failure of a prisoner to remain within the extended limits of his confinement,
 36 or to return within the time prescribed to the place of confinement designated by the
 37 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
 38 Correction punishable as provided in G.S. 148-45."
 39

40 Requested by: Representatives Kiser, Haire

41 **REPORT ON INMATE COMMUNITY WORK CREWS AND INMATE LABOR**
 42 **CONTRACTS**

43 **SECTION 17.14.** The Department of Correction shall report by March 1,
 44 2006, to the Chairs of the Senate and House of Representatives Appropriations
 45 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
 46 Crime Control, and Juvenile Justice Oversight Committee on the inmate labor contracts
 47 and community work programs, identifying total project man-hours provided by
 48 inmates and Department of Correction employees to client agencies, the total
 49 Department operating costs for these programs, and the benefits of these programs. The
 50 report shall also group the man-hour and cost information by the major client groups
 51 and estimate the average project cost and average project duration. The report shall also
 52 provide suggested administrative procedures for collecting a portion of the cost of
 53 inmate work crews and inmate labor contracts.

1
2 Requested by: Representatives Kiser, Haire

3 **REIMBURSEMENT RATES FOR HEALTH SERVICES TO PRISON INMATES**

4 **SECTION 17.15.(a)** G.S. 148-19 reads as rewritten:

5 **"§ 148-19. Health services.**

6 (a) The general policies, rules and regulations of the Department of Correction
7 shall prescribe standards for health services to prisoners, which shall include preventive,
8 diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all
9 types of patients. A prisoner may be taken, when necessary, to a medical facility outside
10 the State prison system. The Department of Correction shall seek the cooperation of
11 public and private agencies, institutions, officials and individuals in the development of
12 adequate health services to prisoners.

13 (b) Upon request of the Secretary of Correction, the Secretary of Health and
14 Human Services may detail personnel employed by the Department of Health and
15 Human Services to the Department of Correction for the purpose of supervising and
16 furnishing medical, psychiatric, psychological, dental, and other technical and scientific
17 services to the Department of Correction. The compensation, allowances, and expenses
18 of the personnel detailed under this section may be paid from applicable appropriations
19 to the Department of Health and Human Services, and reimbursed from applicable
20 appropriations to the Department of Correction. The Secretary of Correction may make
21 similar arrangements with any other agency of State government able and willing to aid
22 the Department of Correction to meet the needs of prisoners for health services.
23 Reimbursement rates to health care providers for health care services rendered to
24 prisoners shall be established as provided in G.S. 148-22.

25 (c) Each prisoner committed to the State Department of Correction shall receive
26 a physical and mental examination by a health care professional authorized by the North
27 Carolina Medical Board to perform such examinations as soon as practicable after
28 admission and before being assigned to work. The prisoner's work and other
29 assignments shall be made with due regard for the prisoner's physical and mental
30 condition.

31 (d) The Commission for Mental Health, Developmental Disabilities, and
32 Substance Abuse Services shall adopt standards for the delivery of mental health and
33 mental retardation services to inmates in the custody of the Department of Correction.
34 The Commission for Mental Health, Developmental Disabilities, and Substance Abuse
35 Services shall give the Secretary of Correction an opportunity to review and comment
36 on proposed standards prior to promulgation of such standards; however, final authority
37 to determine such standards remains with the Commission. The Secretary of the
38 Department of Health and Human Services shall designate an agency or agencies within
39 the Department of Health and Human Services to monitor the implementation by the
40 Department of Correction of these standards and of substance abuse standards adopted
41 by the Department of Correction upon the advice of the Substance Abuse Advisory
42 Council established pursuant to G.S. 143B-270. The Secretary of Health and Human
43 Services shall send a written report on the progress which the Department of Correction
44 has made on the implementation of such standards to the Governor, the Lieutenant
45 Governor, and the Speaker of the House. Such reports shall be made on an annual basis
46 beginning January 1, 1978."

47 **SECTION 17.15.(b)** G.S. 148-22 reads as rewritten:

48 **"§ 148-22. Treatment programs.**

49 (a) The general policies, rules and regulations of the Department of Correction
50 shall provide for humane treatment of prisoners and for programs to effect their
51 correction and return to the community as promptly as practicable. Visits and
52 correspondence between prisoners and approved friends shall be authorized under
53 reasonable conditions, and family members shall be permitted and encouraged to

1 maintain close contact with the prisoners unless such contacts prove to be hurtful.
2 Casework, counseling, and psychotherapy services provided to prisoners may be
3 extended to include members of the prisoner's family if practicable and necessary to
4 achieve the purposes of such programs. Education, library, recreation, and vocational
5 training programs shall be developed so as to coordinate with corresponding services
6 and opportunities which will be available to the prisoner when he is released. Programs
7 may be established for the treatment and training of mentally retarded prisoners and
8 other special groups. These programs may be operated in segregated sections of
9 facilities housing other prisoners or in separate facilities.

10 (b) The Department of Correction may cooperate with and seek the cooperation
11 of public and private agencies, institutions, officials, and individuals in the development
12 and conduct of programs designed to give persons committed to the Department
13 opportunities for physical, mental and moral improvement. The Department may enter
14 into agreements with other agencies of federal, State or local government and with
15 private agencies to promote the most effective use of available resources.

16 Specifically the Secretary of Correction may enter into contracts or agreements with
17 appropriate public or private agencies offering needed services including health, mental
18 health, mental retardation, substance abuse, rehabilitative or training services for such
19 inmates of the Department of Correction as the Secretary may deem eligible. These
20 agencies shall be reimbursed from applicable appropriations to the Department of
21 Correction for services rendered at a rate not to exceed that which such agencies
22 normally receive for serving their regular clients. The Secretary of Correction shall
23 provide for the reimbursement of health care providers for services rendered at a rate
24 not to exceed the rate paid for the same or similar service or diagnostic-related grouping
25 under the Teachers' and State Employees' Comprehensive Major Medical Plan. The
26 Secretary of Correction shall have access to rate information held by the Teachers' and
27 State Employees' Comprehensive Major Medical Plan as authorized under G.S. 135-37
28 and G.S. 135-40.4.

29 The Secretary may contract for the housing of work-release inmates at county jails
30 and local confinement facilities. Inmates may be placed in the care of such agencies but
31 shall remain the responsibility of the Department and shall be subject to the complete
32 supervision of the Department. The Department may reimburse such agencies for the
33 support of such inmates at a rate not in excess of the average daily cost of inmate care in
34 the corrections unit to which the inmate would otherwise be assigned."

35 **SECTION 17.15.(c)** G.S. 135-37 reads as rewritten:

36 "**§ 135-37. Confidentiality.**

37 Any information as herein described in this section which is in the possession of the
38 Executive Administrator and the Board of Trustees of the Teachers' and State
39 Employees' Comprehensive Major Medical Plan or its Claims Processor under the
40 Teachers' and State Employees' Comprehensive Major Medical Plan shall be
41 confidential and shall be exempt from the provisions of Chapter 132 of the General
42 Statutes or any other provision requiring information and records held by State agencies
43 to be made public or accessible to the public. This section shall apply to all information
44 concerning individuals, including the fact of coverage or noncoverage, whether or not a
45 claim has been filed, medical information, whether or not a claim has been paid, and
46 any other information or materials concerning a plan participant. Provided, however,
47 such information may be released to the State Auditor, or to the Attorney General, or to
48 the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and
49 responsibilities, or to the Secretary of Correction in furtherance of the Secretary's duty
50 under G.S. 148-19 and G.S. 148-22, or to such persons or organizations as may be
51 designated and approved by the Executive Administrator and Board of Trustees of the
52 Teachers' and State Employees' Comprehensive Major Medical Plan, but any
53 information so released shall remain confidential as stated above and any party

1 obtaining such information shall assume the same level of responsibility for maintaining
2 such confidentiality as that of the Executive Administrator and Board of Trustees of the
3 Teachers' and State Employees' Comprehensive Major Medical Plan."

4 **SECTION 17.15.(d)** G.S. 135-40.4 reads as rewritten:

5 **"§ 135-40.4. Benefits in general.**

6 (a) In the event a covered person, as a result of accidental bodily injury, disease
7 or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts
8 described in G.S. 135-40.5 through G.S. 135-40.9.

9 The Plan is divided into two parts. The first part includes certain benefits which are
10 not subject to a deductible or coinsurance. The second part is a comprehensive plan and
11 includes those benefits which are subject to both a three hundred fifty dollar (\$350.00)
12 deductible for each covered individual to an aggregate maximum of one thousand fifty
13 dollars (\$1,050) per employee and child(ren) or employee and family coverage contract
14 and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the
15 second part.

16 Notwithstanding the provisions of this Article, the Executive Administrator and
17 Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical
18 Plan may contract with providers of institutional and professional medical care and
19 services to established preferred provider networks. The terms pertaining to
20 reimbursement rates or other terms of consideration of any contract between hospitals,
21 hospital authorities, doctors or other medical providers, or a pharmacy benefit manager
22 and the Plan shall not be a public record under Chapter 132 of the General Statutes for a
23 period of thirty months after the date of the expiration of the contract. Provided,
24 however, nothing in this subsection shall be deemed to prevent or restrict the release of
25 any information made not a public record under this subsection to the State Auditor, the
26 Attorney General, the Director of the State Budget, the Secretary of Correction, the
27 Plan's Executive Administrator, and the Committee on Employee Hospital and Medical
28 Benefits solely and exclusively for their use in the furtherance of their duties and
29 responsibilities. The design, adoption, and implementation of the preferred provider
30 contracts and networks are not subject to the requirements of Chapter 143 of the
31 General Statutes, provided that for any hospital preferred provider network all hospitals
32 will have an opportunity to contract with the Plan if they meet the contract
33 requirements. The Executive Administrator and Board of Trustees shall, under the
34 provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely
35 basis and shall make reports as requested to the President of the Senate, the President
36 Pro Tempore of the Senate, the Speaker of the House of Representatives, and the
37 Committee on Employee Hospital and Medical Benefits on its progress in negotiating
38 the preferred provider contracts. The Executive Administrator and Board of Trustees
39 shall implement a refined diagnostic-related grouping or diagnostic-related
40 grouping-based reimbursement system for hospitals as soon as practicable, but no later
41 than January 1, 1995.

42 (b) As used in this section the term "preferred provider contracts or networks"
43 includes, but is not limited to, a refined diagnostic-related grouping or
44 diagnostic-related grouping-based system of reimbursement for hospitals."

45 **SECTION 17.15.(e)** The Secretary of Correction shall provide a progress
46 report on the implementation of this section to the Joint Legislative Corrections, Crime
47 Control, and Juvenile Justice Oversight Committee by January 1, 2006, and a final
48 report to the Chairs of the House of Representatives and Senate Appropriations
49 Committee and the Chairs of the House of Representatives and Senate Appropriations
50 Subcommittees on Justice and Public Safety by May 1, 2006. The report shall detail any
51 savings generated from this new policy as well as any administrative or procedural
52 problems in the implementation of the policy. The report shall also identify any
53 reduction or changes in the availability of medical services for inmates as a result of this

1 section. The Department of Correction shall also identify in the report those providers
2 that have decided not to continue to provide medical services to inmates as a result of
3 this section.

4 The Department of Correction shall also report on any cost savings generated
5 in the inmate medical budget as a result of the new Department of Correction medical
6 positions funded in this act or as a result of any new departmental initiatives established
7 during the 2005-2006 fiscal year.

8 **SECTION 17.15.(f)** The Executive Administrator of the Teachers' and State
9 Employees' Comprehensive Major Medical Plan shall work with the North Carolina
10 Association of County Commissioners to determine the potential savings and cost of
11 authorizing local confinement facilities to reimburse health care providers for inmate
12 medical services rendered at a rate not to exceed the rate paid for the same or similar
13 services or diagnostic-related groupings under the Teachers' and State Employees'
14 Comprehensive Major Medical Plan.

15
16 Requested by: Representatives Kiser, Haire, Owens

17 **CORRECTION ENTERPRISES LONG-RANGE PLAN/REPLACEMENT OF**
18 **UMSTEAD LAUNDRY**

19 **SECTION 17.16.(a)** The Department of Correction, through the Correction
20 Enterprises Program, shall update its long-range business plan to identify alternatives
21 for (i) increasing productivity and expanding markets for current Enterprise products;
22 (ii) increasing the number of inmates employed in Correction Enterprises; and (iii)
23 identifying new or expanded industries that will best meet the goals of training inmates
24 while providing reasonable profits that allow Correction Enterprises to expand industry
25 sites and maintain current sites where appropriate. The study shall include a review of
26 the potential to expand the Prison Industry Enhancement (PIE) Programs with private
27 industry. The Plan shall also identify capital and operating costs for implementing the
28 long-range plan.

29 The Department of Correction shall submit the long-range business plan
30 required by this section to the Joint Legislative Corrections, Crime Control, and
31 Juvenile Justice Oversight Committee by March 1, 2006.

32 **SECTION 17.16.(b)** In preparation for the scheduled closing of Umstead
33 Hospital in 2007, the Department of Correction shall develop a plan for the replacement
34 of the Correction Enterprises laundry operation at Umstead Hospital and include that
35 report with the long-range plan required by this section.

36
37 Requested by: Representatives Kiser, Haire

38 **STAFFING STUDY OF UNIT MANAGEMENT**

39 **SECTION 17.17.** The Department of Correction shall conduct an
40 organization and staffing study of unit management in the State prison system, focusing
41 on the 18 prison facilities that use unit management. The Department shall review
42 workload and staffing at each of the prisons and make recommendations for staffing
43 changes and staffing efficiencies. The study shall consider the responsibilities and
44 workloads of custody supervisors and program staff in relation to unit managers and
45 determine whether certain functions should be the responsibility of custody supervisors
46 or program staff.

47 The Department shall report its findings and recommendations to the Chairs
48 of the House and Senate Appropriations Subcommittees on Justice and Public Safety
49 and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
50 Committee by March 1, 2006.

51
52 Requested by: Representatives Kiser, Haire

53 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

1 **SECTION 17.17A.** The Department of Correction may continue to contract
2 with Energy Committed To Offenders, Inc., for the purchase of prison beds for
3 minimum security female inmates during the 2005-2007 biennium. Energy Committed
4 To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative
5 Commission on Governmental Operations on the annual cost per inmate and the average
6 daily inmate population compared to bed capacity using the same methodology as that
7 used by the Department of Correction.

8
9 Requested by: Representatives Kiser, Haire, Miller

10 **REPORT ON ELECTRONIC MONITORING COSTS/STUDY THE USE OF**
11 **GLOBAL POSITIONING SYSTEMS IN THE LOCATION AND TRACKING**
12 **OF CONVICTED SEX OFFENDERS**

13 **SECTION 17.19.(a)** The Department of Correction shall report by March 1
14 of each year to the Chairs of the Senate and House of Representatives Appropriations
15 Committees and the Chairs of the Senate and House of Representatives Appropriations
16 Subcommittees on Justice and Public Safety on its efforts to increase the use of
17 electronic monitoring of sentenced offenders in the community as an alternative to the
18 incarceration of probation violators. The report shall also document the geographical
19 distribution of electronic monitoring use compared to other intermediate sanctions. The
20 Department shall also analyze the reasons for the underutilization of the electronic
21 monitoring program and include its findings in the report.

22 **SECTION 17.19.(b)** The Joint Legislative Corrections, Crime Control, and
23 Juvenile Justice Oversight Committee shall study the use of global positioning
24 monitoring devices for released felons convicted of crimes of sexual predation. The
25 review shall include the consideration of ways to enhance the effectiveness of the
26 Division of Criminal Statistics in locating individuals required to register as sex
27 offenders.

28
29 Requested by: Representatives Kiser, Haire

30 **REPORT ON PROBATION AND PAROLE CASELOADS**

31 **SECTION 17.20.(a)** The Department of Correction shall report by March 1
32 of each year to the Chairs of the Senate and House of Representatives Appropriations
33 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
34 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
35 probation and parole officers. The report shall include:

- 36 (1) Data on current caseload averages for Probation Parole Officer I,
37 Probation Parole Officer II, and Probation Parole Officer III positions;
- 38 (2) An analysis of the optimal caseloads for these officer classifications;
- 39 (3) An assessment of the role of surveillance officers;
- 40 (4) The number and role of paraprofessionals in supervising low-risk
41 caseloads;
- 42 (5) An update on the Department's implementation of the
43 recommendations contained in the National Institute of Correction
44 study conducted on the Division of Community Corrections in 2004;
- 45 (6) The selection of a risk assessment and the resulting distribution of
46 offenders among risk levels; and
- 47 (7) Any position reallocations in the previous 12 months, and the reasons
48 for and fiscal impact of those reallocations.

49 **SECTION 17.20.(b)** The Department of Correction shall conduct a study of
50 probation/parole officer workload at least biannually. The study shall include analysis of
51 the type of offenders supervised, the distribution of the probation/parole officers' time
52 by type of activity, the caseload carried by the officers, and comparisons to practices in
53 other states. The study shall be used to determine whether the caseload goals established

1 by the Structured Sentencing Act are still appropriate, based on the nature of the
2 offenders supervised and the time required to supervise those offenders.

3 **SECTION 17.20.(c)** The Department of Correction shall report the results of
4 the study and recommendations for any adjustments to caseload goals to the Senate and
5 House of Representatives Appropriations Subcommittees on Justice and Public Safety
6 by January 1, 2007.

7
8 Requested by: Representatives Kiser, Haire
9 **COMMUNITY SERVICE WORK PROGRAM**

10 **SECTION 17.21.** The Department of Correction shall report to the Chairs of
11 the Senate and House of Representatives Appropriations Subcommittees on Justice and
12 Public Safety by February 1 of each year on the integration of the Community Service
13 Work Program into the Division of Community Corrections, including the Department's
14 ability to monitor the collection of offender payments from unsupervised offenders
15 sentenced to community service. The Department shall also report to the Chairs of the
16 Senate and House of Representatives Appropriations Subcommittees on Justice and
17 Public Safety by February 1 of each year on the average caseloads of Community
18 Service Work Program coordinators, by district, division, and statewide. The report
19 shall also include the money collected, the type and value of the work performed, and
20 the number of offenders in the Community Service Work Program, by type of referral
21 (i.e. parole, supervised probation, unsupervised probation or community punishment,
22 DWI, or any other agency referrals).

23
24 Requested by: Representatives Kiser, Haire
25 **REPORTS ON NONPROFIT PROGRAMS**

26 **SECTION 17.22.(a)** Funds appropriated in this act to the Department of
27 Correction to support the programs of Harriet's House may be used for program
28 operating costs, the purchase of equipment, and the rental of real property to serve
29 women released from prison with children in their custody. Harriet's House shall report
30 by February 1 of each year to the Joint Legislative Commission on Governmental
31 Operations on the expenditure of State appropriations and on the effectiveness of the
32 program, including information on the number of clients served, the number of clients
33 who successfully complete the Harriet's House program, and the number of clients who
34 have been rearrested within three years of successfully completing the program. The
35 report shall provide financial and program data for the complete fiscal year prior to the
36 year in which the report is submitted. The financial report shall identify all funding
37 sources and amounts.

38 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year
39 to the Joint Legislative Commission on Governmental Operations on the expenditure of
40 State appropriations and on the effectiveness of the program, including information on
41 the number of clients served, the number of clients who have had their probation
42 revoked, the number of clients who successfully complete the program while housed at
43 Summit House, Inc., and the number of clients who have been rearrested within three
44 years of successfully completing the program. The report shall provide financial and
45 program data for the complete fiscal year prior to the year in which the report is
46 submitted. The financial report shall identify all funding sources and amounts.

47 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year
48 to the Joint Legislative Commission on Governmental Operations on the expenditure of
49 State funds and on the effectiveness of the program, including information on the
50 number of clients served, the number of clients who have had their probation revoked,
51 the number of clients who have successfully completed the program, and the number of
52 clients who have been rearrested within three years of successfully completing the
53 program. The report shall provide financial and program data for the complete fiscal

1 year prior to the year in which the report is submitted. The financial report shall identify
2 all funding sources and amounts.

3
4 Requested by: Representatives Kiser, Haire

5 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

6 **SECTION 17.23.(a)** It is the intent of the General Assembly that State
7 Criminal Justice Partnership Program funds not be used to fund case manager positions
8 when those services can be reasonably provided by Division of Community Corrections
9 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
10 Department of Health and Human Services.

11 **SECTION 17.23.(b)** Notwithstanding the provisions of G.S. 143B-273.15
12 specifying that grants to participating counties are for the full fiscal year and that
13 unobligated funds are returned to the State-County Criminal Justice Partnership
14 Account at the end of the grant period, the Department of Correction may reallocate
15 unspent or unclaimed funds distributed to counties participating in the State-County
16 Criminal Justice Partnership Program in an effort to maintain the level of services
17 realized in previous fiscal years.

18 **SECTION 17.23.(c)** The Department of Correction may not deny funds to a
19 county to support both a residential program and a day reporting center if the
20 Department of Correction determines that the county has a demonstrated need and a
21 fully developed plan for each type of sanction.

22 **SECTION 17.23.(d)** The Department of Correction shall report by February
23 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
24 Committees, the Senate and House of Representatives Appropriations Subcommittees
25 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
26 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
27 Partnership Program. The report shall include the following information:

- 28 (1) The amount of funds carried over from the prior fiscal year;
- 29 (2) The dollar amount and purpose of grants awarded to counties as
30 discretionary grants for the current fiscal year;
- 31 (3) Any counties the Department anticipates will submit requests for new
32 implementation grants;
- 33 (4) An update on efforts to ensure that all counties make use of the
34 electronic reporting system, including the number of counties
35 submitting offender participation data via the system;
- 36 (5) An analysis of offender participation data received, including data on
37 each program's utilization and capacity;
- 38 (6) An analysis of comparable programs, prepared by the Division of
39 Research and Planning, Department of Correction, including a
40 comparison of programs in each program type on selected outcome
41 measures developed by the Division of Community Corrections in
42 consultation with the Fiscal Research Division and the Division of
43 Research and Planning, and a summary of the reports prepared by
44 county Criminal Justice Partnerships Advisory Boards; and
- 45 (7) An evaluation of whether each sentenced offender program meets
46 program standards developed by the Division of Community
47 Corrections in consultation with the Division of Research and
48 Planning.

49 **SECTION 17.23.(e)** G.S. 143B-273.14(c) reads as rewritten:

50 "(c) When a county receives more than fifty thousand dollars (\$50,000) in
51 community-based corrections funds, then that county shall use at least fifty percent
52 (50%) of those funds to develop programs for offenders who receive intermediate

1 punishments. No county shall use more than twenty-five percent (25%) of its funds to
2 serve offenders released from jail prior to trial."

3 **SECTION 17.23.(f)** G.S. 143B-273.15 reads as rewritten:

4 **"§ 143B-273.15. Funding formula.**

5 To determine the grant amount for which a county or counties may apply, the
6 granting authority shall apply the following formula:

- 7 (1) ~~Twenty percent (20%)~~Twenty-five percent (25%) based on a fixed
8 equal dollar amount for each county;
9 (2) ~~Sixty percent (60%)~~Fifty percent (50%) based on the county share of
10 the State population; and
11 (3) ~~Twenty percent (20%)~~Twenty-five percent (25%) based on the
12 supervised probation admissions-intermediate punishment entry rate
13 for the county-county, using the total of the three most recent years of
14 data available divided by the average county population for that same
15 period.

16 The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the
17 funding that a county may apply for under this subsection.

18 Grants to participating counties are for a period of one fiscal year with unobligated
19 funds being returned to the Account at the end of the grant period. Funds are provided
20 to participating counties on a reimbursement basis unless a county documents a need for
21 an advance of grant funds. The data used for this funding formula shall be updated at
22 least once every three years."

23 **SECTION 17.23.(g)** For the 2005-2006 fiscal year, notwithstanding the
24 formula in G.S. 143B-273.15, each county's formula allocation shall be capped at no
25 less than ninety-nine percent (99%) and no greater than one hundred twenty percent
26 (120%) of the funds allocated to that county for the 2004-2005 fiscal year. Funding caps
27 shall be accomplished by the redistribution of three hundred forty-four thousand four
28 hundred ninety-one dollars (\$344,491) that was spent on case management services in
29 day reporting centers prior to 2002. For the 2006-2007 fiscal year, the same procedures
30 shall be used, except that the capped amounts shall be no less than ninety-five percent
31 (95%) and no greater than one hundred twenty-five percent (125%) of the funds
32 allocated to that county for the 2004-2005 fiscal year. No funds shall be used to fund
33 programs that did not participate in the Criminal Justice Partnership Program in fiscal
34 year 2004-2005.

35
36 Requested by: Representatives Kiser, Haire

37 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

38 **SECTION 17.24.** The Post-Release Supervision and Parole Commission
39 shall report by January 15 and July 15 of each year to the Senate and House of
40 Representatives Appropriations Subcommittees on Justice and Public Safety and the
41 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
42 on inmates eligible for parole. These reports shall include at least the following:

- 43 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
44 that were parole-eligible during the current fiscal year and the total
45 number of those inmates that were paroled. The report should group
46 these inmates by offense type, custody classification, and type of
47 parole. The report should also include a more specific analysis of those
48 inmates who were parole-eligible and assigned to minimum custody
49 classification but not released;
50 (2) The average time served, by offense class, of Fair Sentencing and
51 Pre-Fair Sentencing inmates compared to inmates sentenced under
52 Structured Sentencing; and

- 1 (3) The projected number of parole-eligible inmates to be paroled or
2 released by the end of the 2007-2008 fiscal year and by the end of each
3 of the next five fiscal years, beginning with the 2008-2009 fiscal year.
4

5 Requested by: Representatives Kiser, Haire

6 **PROVIDE THAT THE TERMS OF THE MEMBERS OF THE POST-RELEASE**
7 **SUPERVISION AND PAROLE COMMISSION SERVING ON JUNE 30,**
8 **2005, EXPIRE ON THAT DATE AND RESTRUCTURE THE COMMISSION**
9 **TO CONSIST OF ONE FULL-TIME MEMBER AND TWO HALF-TIME**
10 **MEMBERS**

11 **SECTION 17.25.(a)** G.S. 143B-267 reads as rewritten:

12 **"§ 143B-267. Post-Release Supervision and Parole Commission – members;**
13 **selection; removal; chairman; compensation; quorum; services.**

14 The Effective July 1, 2005, the Post-Release Supervision and Parole Commission
15 shall consist of ~~three~~ one full-time ~~members.~~ member and two half-time members. The
16 three ~~full-time~~ members shall be appointed by the Governor from persons whose
17 recognized ability, training, experience, and character qualify them for service on the
18 Commission. The terms of office of ~~the five members presently~~ any members serving
19 on the Commission on June 30, 2005, shall expire on ~~July 31, 1999.~~ that date. ~~The term~~
20 ~~of one of the members appointed effective August 1, 1999, shall be for one year. The~~
21 ~~term of one of the members appointed effective August 1, 1999, shall be for two years.~~
22 ~~The term of one of the members appointed effective August 1, 1999, shall be for three~~
23 ~~years. Thereafter,~~ The terms of office of persons appointed by the Governor as
24 members of the Commission shall be for four years or until their successors are
25 appointed and qualify. Any appointment to fill a vacancy on the Commission created by
26 the resignation, removal, death or disability of a full-time member shall be for the
27 balance of the unexpired term only.

28 The Governor shall have the authority to remove any member of the Commission
29 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
30 G.S. 143B-13. The Governor shall designate a ~~full-time~~ member of the Commission to
31 serve as ~~chairman~~ chair of the Commission at the pleasure of the Governor.

32 The granting, denying, revoking, or rescinding of parole, the authorization of
33 work-release privileges to a prisoner, or any other matters of business coming before the
34 Commission for consideration and action shall be decided by majority vote of the full
35 Commission.

36 The ~~full-time~~ members of the Commission shall receive the salary fixed by the
37 General Assembly in the Current Operations Appropriations Act and shall receive
38 necessary travel and subsistence expenses in accordance with the provisions of
39 G.S. 138-6.

40 All clerical and other services required by the Commission shall be supplied by the
41 Secretary of Correction."

42 **SECTION 17.25.(b)** This section becomes effective June 30, 2005.
43

44 Requested by: Representatives Kiser, Haire

45 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
46 **STAFFING REORGANIZATION AND REDUCTION**

47 **SECTION 17.26.** The Post-Release Supervision and Parole Commission
48 shall report by October 1 of each year to the Chairs of the Senate and House of
49 Representatives Appropriations Subcommittees on Justice and Public Safety on a plan
50 for restructuring the organization and operation of the Commission and implementing
51 staff reductions to reflect both declines and changes in workload.
52

53 Requested by: Representatives Kiser, Haire

MUTUAL AGREEMENT PAROLE PROGRAM

SECTION 17.27. The Department of Correction and the Post-Release Supervision and Parole Commission shall make a good faith effort to enroll at least twenty percent (20%) of all program-eligible, pre-Structured Sentencing felons in the Mutual Agreement Parole Program by January 1, 2006. The Department shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the number of inmates actually enrolled in the program, the number of inmates who have been paroled as a result of participation in the program, and the number of inmates who have enrolled but terminated as a result of unsuccessful participation in the program. If the twenty percent (20%) participation goal established by this section has not been reached, the report shall explain why the goal was not realized.

Requested by: Representatives Sutton, Haire, Kiser

PAROLE ELIGIBILITY REPORT

SECTION 17.28.(a) The Post-Release Supervision and Parole Commission shall analyze the amount of time each parole-eligible inmate has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 17.28.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.
- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 17.28.(c) The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the results of its analysis by February 1, 2006, and shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing.

Requested by: Representatives Kiser, Haire

PAYMENT OF COURT COSTS, FINES, AND RESTITUTION BY PROBATIONERS

SECTION 17.29. G.S. 15A-1343(b) reads as rewritten:

- "(b) Regular Conditions. – As regular conditions of probation, a defendant must:
...

- 1 (9) Pay the costs of court, any fine ordered by the court, and make
2 restitution or reparation as provided in subsection (d). A defendant
3 shall not pay costs associated with a substance abuse monitoring
4 program or any other special condition of probation in lieu of, or prior
5 to, the payments required by this subdivision.

6 "

7
8 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

9
10 Requested by: Representatives Kiser, Haire

11 **ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM**

12 **SECTION 18.1.** The Department of Crime Control and Public Safety shall
13 report to the Chairs of the House of Representatives and Senate Appropriations
14 Committees and the Chairs of the House of Representatives and Senate Appropriations
15 Subcommittees on Justice and Public Safety by April 1 of each year of the biennium on
16 the operations and effectiveness of the National Guard Tarheel Challenge Program. The
17 report should evaluate the program's effectiveness as an intervention method for
18 preventing juveniles from becoming undisciplined or delinquent. The report shall also
19 evaluate the Program's role in improving individual skills and employment potential for
20 participants and shall include:

- 21 (1) The source of referrals for individuals participating in the Program;
22 (2) The summary of types of actions or offenses committed by the
23 participants of the Program;
24 (3) An analysis outlining the cost of providing services for each
25 participant, including a breakdown of all expenditures related to the
26 administration and operation of the Program and the education and
27 treatment of the Program participants;
28 (4) The number of individuals who successfully complete the Program;
29 and
30 (5) The number of participants who commit offenses after completing the
31 Program.

32
33 Requested by: Representatives Kiser, Haire

34 **VICTIMS ASSISTANCE NETWORK REPORT**

35 **SECTION 18.2.** The Department of Crime Control and Public Safety shall
36 report on the expenditure of funds allocated pursuant to this act for the Victims
37 Assistance Network. The Department shall also report on the Network's efforts to gather
38 data on crime victims and their needs, act as a clearinghouse for crime victims' services,
39 provide an automated crime victims' bulletin board for subscribers, identify the training
40 needs of crime victims' services providers and criminal justice personnel, and
41 coordinate training for these personnel. The Department shall submit its report to the
42 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate
43 and House of Representatives by December 1 of each year of the biennium.

44
45 **PART XIX. DEPARTMENT OF ADMINISTRATION**

46
47 Requested by: Representatives Adams, West

48 **CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE**
49 **DEPARTMENT OF ADMINISTRATION**

50 **SECTION 19.1.** The Secretary of the Department of Administration, in
51 collaboration with appropriate entities that concentrate on public policy and business
52 management, shall continue the study that was completed during the 2003-2004 fiscal
53 year of the functions of the advocacy programs that are housed in the Department of

1 Administration to determine the appropriate organizational placement of the programs
2 within State government. The study shall include both the advocacy and service
3 functions of the Division of Veterans Affairs, the Council for Women and the Domestic
4 Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy
5 Council for Persons with Disabilities, the Human Relations Commission, and the Youth
6 Advocacy and Involvement Office. The study shall also consider whether the functions
7 of the programs could be more efficiently and effectively performed by an appropriate
8 nonprofit organization. The Secretary shall report the findings and recommendations to
9 the Joint Legislative Commission on Governmental Operations and to the Chairs of the
10 Senate and House of Representatives Appropriations Committees by April 1, 2006.

11
12 Requested by: Representatives Adams, West

13 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
14 **FUND**

15 **SECTION 19.2.** In accordance with G.S. 116B-7(b), there is appropriated
16 from the Escheat Fund to the Department of Administration the sum of four million two
17 hundred ninety-seven thousand five hundred forty-four dollars (\$4,297,544) for the
18 2005-2006 fiscal year and four million three hundred fifty-eight thousand forty-six
19 dollars (\$4,358,046) for the 2006-2007 fiscal year.

20
21 Requested by: Representatives Adams, West

22 **STATE VETERANS CEMETERIES**

23 **SECTION 19.3.** The Department of Administration may use funds credited
24 to the Veterans Burial Fund for the 2005-2007 biennium to cover costs incurred as a
25 result of burials on Saturday or Sunday.

26
27 Requested by: Representatives Adams, West

28 **ALLOCATION OF PETROLEUM VIOLATION ESCROW FUNDS**

29 **SECTION 19.4.** Of the unallocated balance of the funds and interest thereon
30 received from the cases of United States v. Stripper Well, United States v. Exxon,
31 United States v. Diamond Shamrock, United States v. Amoco, United States v.
32 Chevron, and United States v. Occidental that remain in the Special Reserve for Oil
33 Overcharge Funds, there is appropriated to the Department of Administration the sum of
34 one million five hundred thousand dollars (\$1,500,000) for the 2005-2006 fiscal year to
35 be allocated for projects approved by the State Energy Policy Council.

36
37 **PART XX. OFFICE OF THE GOVERNOR**

38
39 Requested by: Representatives Adams, West

40 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

41 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
42 Agency for the federal HOME Program shall be used to match federal funds
43 appropriated for the HOME Program. In allocating State funds appropriated to match
44 federal HOME Program funds, the Agency shall give priority to HOME Program
45 projects, as follows:

- 46 (1) First priority to projects that are located in counties designated as Tier
47 One, Tier Two, or Tier Three Enterprise Counties under
48 G.S. 105-129.3; and
- 49 (2) Second priority to projects that benefit persons and families whose
50 incomes are fifty percent (50%) or less of the median family income
51 for the local area, with adjustments for family size, according to the
52 latest figures available from the United States Department of Housing
53 and Urban Development.

1 The Housing Finance Agency shall report to the Joint Legislative
2 Commission on Governmental Operations by April 1 of each year concerning the status
3 of the HOME Program and shall include in the report information on priorities met,
4 types of activities funded, and types of activities not funded.

5 **SECTION 20.1.(b)** If the United States Congress changes the HOME
6 Program such that matching funds are not required for a given program year, then the
7 Agency shall not spend the matching funds appropriated under this act for that program
8 year.

9 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
10 Program funds shall not revert to the General Fund on June 30, 2006, or on June 30,
11 2007.

12 **PART XX-A. INFORMATION TECHNOLOGY**

13 Requested by: Representatives Adams, West

14 **MULTIYEAR MAINTENANCE CONTRACTS**

15 **SECTION 20A.1.(a)** Notwithstanding the cash management provisions of
16 G.S. 147-86.11, the State Controller may authorize the Office of Information
17 Technology Services (ITS) to purchase not more than four infrastructure maintenance
18 agreements for periods not exceeding three years where the terms of those maintenance
19 agreements require payment of the full purchase price at the beginning of the
20 maintenance period. The State Controller shall not authorize the agreements authorized
21 by this section unless all of the following conditions are met:

- 22 (1) The proposed infrastructure maintenance agreement is entered into
23 after June 30, 2005, and before July 1, 2007.
- 24 (2) The State Controller receives conclusive evidence that the proposed
25 infrastructure agreement would be more cost-effective than any similar
26 agreement that complies with G.S. 147-86.11.
- 27 (3) The Office of State Budget and Management (OSBM) verifies to the
28 State Controller that the savings resulting from the proposed
29 infrastructure agreement will be passed on to users in the form of
30 lower rates for ITS Internal Service Fund services.
- 31 (4) The purchase of the proposed maintenance agreement complies in all
32 other respects with applicable statutes and rules.
- 33 (5) ITS shall make adjustments of excess revenue, based on rates
34 approved by OSBM, over allowable costs.

35 **SECTION 20A.1.(b)** OSBM shall verify that each proposed infrastructure
36 agreement results in lower ITS rates for Internal Service Fund services, and
37 subsequently reduces the appropriate State agencies' budgets by the same amount of the
38 projected rate reductions.

39 **SECTION 20A.1.(c)** OSBM shall report on budget reductions and provide
40 full justification for any authorizations granted under this section to the Joint Legislative
41 Commission on Governmental Operations and to the Fiscal Research Division of the
42 General Assembly within 30 days after the authorization is granted.

43 **PART XXI. DEPARTMENT OF INSURANCE**

44 Requested by: Representatives Adams, West

45 **INSURANCE REGULATORY FUND TRANSFER TO GENERAL FUND**

46 **SECTION 21.1.** The Commissioner of Insurance shall transfer funds
47 quarterly from the Insurance Regulatory Fund to the General Fund to repay the funds
48 appropriated to the Department of Insurance from the General Fund for each fiscal year,
49 plus accrued interest at a rate determined by the State Treasurer.
50
51
52
53

1
2 **PART XXII. DEPARTMENT OF REVENUE**
3

4 Requested by: Representatives Adams, West

5 **DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER**
6 **SERVICES AND COLLECTION**

7 **SECTION 22.1.(a)** G.S. 105-243.1(e) reads as rewritten:

8 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
9 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
10 account within the Department and may be expended only as provided in this
11 subsection. The proceeds of the fee may not be used for any purpose that is not directly
12 and primarily related to collecting overdue tax debts. The Department may apply the
13 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of
14 the fee may be spent only pursuant to appropriation by the General Assembly. The fee
15 proceeds do not revert but remain in the special account until spent for the costs of
16 collecting overdue tax debts. The Department and the Office of State Budget and
17 Management must account for all expenditures using accounting procedures that clearly
18 distinguish costs allocable to collecting overdue tax debts from costs allocable to other
19 purposes and must demonstrate that none of the fee proceeds are used for any purpose
20 other than collecting overdue tax debts.

21 The Department may apply the fee proceeds for the following purposes:

- 22 (1) To pay contractors for collecting overdue tax debts under subsection
23 (b) of this section.
24 (2) To pay the fee the United States Department of the Treasury charges
25 for setoff to recover tax owed to North Carolina.
26 (3) To pay for taxpayer locater services, not to exceed one hundred
27 thousand dollars (\$100,000) a year.
28 (4) To pay for postage or other delivery charges for correspondence
29 directly and primarily relating to collecting overdue tax debts.
30 (5) To pay for operating expenses for Project Collection Tax and the
31 Taxpayer Assistance Call Center.
32 (6) To pay for expenses of the Examination and Collection Division
33 directly and primarily relating to collecting overdue tax debts."

34 **SECTION 22.1.(b)** G.S. 105-243.1(f) reads as rewritten:

35 "(f) Reports. – The Department must report semiannually to the Joint Legislative
36 Commission on Governmental Operations and to the Revenue Laws Study Committee
37 on its efforts to collect tax debts. Each report must include a breakdown of the amount
38 and age of tax debts collected by collection agencies on contract, the amount and age of
39 tax debts collected by the Department through warning letters, and the amount and age
40 of tax debts otherwise collected by Department personnel. The report must itemize
41 collections by type of tax. Each report must also include a long-term collection plan, a
42 timeline for implementing each step of the plan, a summary of steps taken since the last
43 report and their results, and any other data requested by the Commission or the
44 Committee.

45 The Department must report by April 1, 2006, and annually thereafter, to the
46 Revenue Laws Study Committee and the Fiscal Research Division of the General
47 Assembly on the use of the fee proceeds for collecting overdue tax debts."
48

49 Requested by: Representatives Adams, West

50 **POSITIONS FOR REVENUE TAX EVASION PROJECT**

51 **SECTION 22.3.** The 10 time-limited positions established in the Fuel Tax
52 Compliance Division of the Department of Revenue for the Revenue Tax Evasion
53 Project in S.L. 2004-124 are converted to permanent positions.

1
2 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
3 Michaux

4 **REPORT ON ENHANCED COMPLIANCE, ENFORCEMENT, AND**
5 **COLLECTION EFFORTS**

6 **SECTION 22.4.** On or before April 1, 2006, the Department must report to
7 the Joint Legislative Commission on Governmental Operations and to the Revenue
8 Laws Study Committee on its enhanced compliance, enforcement, and collection
9 efforts. The report must include the following:

- 10 (1) A detailed description of enhanced compliance, enforcement, and
11 collection programs and methodologies and a detailed accounting of
12 additional revenues collected as a result of each of those specific
13 programs and methodologies.
14 (2) An analysis of the effectiveness and cost-efficiency of the various
15 programs and methodologies with respect to each type of tax.
16 (3) A description of efforts to coordinate these enhanced compliance,
17 enforcement, and collection efforts with existing compliance and
18 collection efforts and recommendations for streamlining these various
19 efforts.
20 (4) Recommendations for specific, nonbudgetary legislative actions to
21 further enhance compliance, enforcement, and collection efforts.
22

23 **PART XXIII. SECRETARY OF STATE**
24

25 Requested by: Representatives Adams, West

26 **SECRETARY OF STATE TO REASSIGN VACANT POSITION**

27 **SECTION 23.1.** The Secretary of State shall reassign position
28 3222-0000-0000-361 from the Uniform Commercial Code Division to its General
29 Administration Division to assist with investigations of trademark violations and
30 training for other law enforcement personnel in the State and with investigations of
31 violations of the Charitable Solicitation Licensing Act. The Secretary shall report to the
32 Chairs of the Appropriations Subcommittees on General Government of the Senate and
33 House of Representatives by December 1, 2005.
34

35 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**
36

37 Requested by: Representatives Adams, West

38 **NC HUMANITIES COUNCIL**

39 **SECTION 24.1.** The North Carolina Humanities Council shall:

- 40 (1) By January 15, 2006, and more frequently as requested, report to the
41 Joint Legislative Commission on Governmental Operations and the
42 Fiscal Research Division the following information:
43 a. State fiscal year 2004-2005 program activities, objectives, and
44 accomplishments;
45 b. State fiscal year 2004-2005 itemized expenditures and fund
46 sources;
47 c. State fiscal year 2005-2006 planned activities, objectives, and
48 accomplishments, including actual results through December
49 31, 2005; and
50 d. State fiscal year 2005-2006 estimated itemized expenditures
51 and fund sources, including actual expenditures and fund
52 sources through December 31, 2005.

- 1 (2) By January 15, 2007, and more frequently as requested, report to the
2 Joint Legislative Commission on Governmental Operations and the
3 Fiscal Research Division the following information:
4 a. State fiscal year 2005-2006 program activities, objectives, and
5 accomplishments;
6 b. State fiscal year 2005-2006 itemized expenditures and fund
7 sources;
8 c. State fiscal year 2006-2007 planned activities, objectives, and
9 accomplishments, including actual results through December
10 31, 2006; and
11 d. State fiscal year 2006-2007 estimated itemized expenditures
12 and fund sources, including actual expenditures and fund
13 sources through December 31, 2006.
14 (3) Provide to the Fiscal Research Division a copy of the organization's
15 annual audited financial statement within 30 days of issuance of the
16 statement.
17

18 PART XXV. OFFICE OF THE STATE CONTROLLER

19
20 Requested by: Representatives Adams, West

21 OVERPAYMENTS AUDIT

22 **SECTION 25.1.(a)** During the 2005-2007 biennium, receipts generated by
23 the collection of inadvertent overpayments by State agencies to vendors as a result of
24 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
25 refunds, erroneously paid excise taxes, and related errors as required by
26 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

27 **SECTION 25.1.(b)** For each fiscal year of the 2005-2007 biennium, two
28 hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve
29 Account 24172 shall be used by the Office of the State Controller for data processing,
30 debt collection, or e-commerce costs.

31 **SECTION 25.1.(c)** All funds available in the Special Reserve Account
32 24172 on July 1 of each year of the 2005-2007 biennium are transferred to the General
33 Fund on that date.

34 **SECTION 25.1.(d)** Any unobligated funds in the Special Reserve Account
35 24172 that are realized above the allowance in subsection (b) of this section are subject
36 to appropriation by the General Assembly in the 2006 Regular Session of the 2005
37 General Assembly.

38 **SECTION 25.1.(e)** The State Controller shall report quarterly to the Joint
39 Legislative Commission on Governmental Operations and the Fiscal Research Division
40 on the revenue deposited into the Special Reserve Account 24172 and the disbursement
41 of that revenue.
42

43 PART XXVII. DEPARTMENT OF THE STATE TREASURER

44
45 Requested by: Representatives Adams, West

46 REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE 47 ENHANCEMENTS

48 **SECTION 27.1.** The Department of State Treasurer shall report to the Joint
49 Legislative Commission on Governmental Operations and to the Chairs of the
50 Appropriations Committees for the Senate and the House of Representatives on the
51 status of the replacement of the multitude of information technology systems with an
52 integrated system for all the retirement plans and other programs administered by the

1 Retirement Systems Division. The Department shall report semiannually by October 1
2 and April 1 until the enhancements are fully implemented.

3
4 Requested by: Representatives Adams, West

5 **STAFFING ANALYSIS FOLLOW-UP**

6 **SECTION 27.2.(a)** The Office of State Budget and Management shall
7 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in
8 April 2003 on the Retirement Systems Division within the Department of State
9 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain
10 appropriate. The semiannual analyses shall be conducted throughout the implementation
11 of the enhancements to the information technology infrastructure within the Retirement
12 Systems Division that were authorized by this act. The follow-up analyses shall also
13 continue for a reasonable time after the completion of the enhancements to ensure that
14 the staffing levels are adjusted based on the increased efficiency provided by the
15 enhancements.

16 **SECTION 27.2.(b)** The Retirement Systems Division shall maintain
17 monthly workload statistics and productivity data for the various functions within the
18 Division. The Department of State Treasurer shall report the workload statistics and
19 productivity data to the Fiscal Research Division and to the Office of State Budget and
20 Management on a quarterly basis.

21
22 Requested by: Representatives Adams, West

23 **TREASURER REPORT ON STATE INVESTMENT OFFICER POSITION**
24 **INCENTIVE BONUS**

25 **SECTION 27.3.** G.S. 147-69.3 is amended by adding a new subsection to
26 read:

27 "(i1) The State Treasurer shall report the incentive bonus paid to the Chief
28 Investment Officer to the Joint Legislative Commission on Governmental Operations by
29 October 1 of each year."

30
31 Requested by: Representatives Adams, West

32 **STATE TREASURER/REALLOCATION OF EXISTING PORTFOLIO**
33 **MANAGER POSITION**

34 **SECTION 27.4.** The State Treasurer shall reallocate twenty-five percent
35 (25%) of the time and effort of one existing Portfolio Manager position to oversee the
36 investment performance of the third-party administration for the 401(k) Supplemental
37 Retirement Plan. In reimbursing the General Fund for the appropriation for the Portfolio
38 Manager position, the State Treasurer shall allocate a proportionate share of the cost of
39 the position to the 401(k) Plan.

40
41 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

42
43 Requested by: Representatives Cole, Coates

44 **REMOVE GOV OPS CONSULTATION ON FEDERAL-AID ACTS**

45 **SECTION 28.1.** G.S. 136-44.2 reads as rewritten:

46 **"§ 136-44.2. Budget and appropriations.**

47 The Director of the Budget shall include in the "Current Operations Appropriations
48 Bill" an enumeration of the purposes or objects of the proposed expenditures for each of
49 the construction and maintenance programs for that budget period for the State primary,
50 secondary, urban, and State parks road systems. The State primary system shall include
51 all portions of the State highway system located outside municipal corporate limits
52 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
53 shall include all of the State highway system located outside municipal corporate limits

1 that is not a part of the State primary system. The State urban system shall include all
2 portions of the State highway system located within municipal corporate limits. The
3 State parks system shall include all State parks roads and parking lots which are not also
4 part of the State highway system.

5 All construction and maintenance programs for which appropriations are requested
6 shall be enumerated separately in the budget. Programs that are entirely State funded
7 shall be listed separately from those programs involving the use of federal-aid funds.
8 Proposed appropriations of State matching funds for each of the federal-aid construction
9 programs shall be enumerated separately as well as the federal-aid funds anticipated for
10 each program in order that the total construction requirements for each program may be
11 provided for in the budget. Also, proposed State matching funds for the highway
12 planning and research program shall be included separately along with the anticipated
13 federal-aid funds for that purpose.

14 Other program categories for which appropriations are requested, such as, but not
15 limited to, maintenance, channelization and traffic control, bridge maintenance, public
16 service and access road construction, and ferry operations shall be enumerated in the
17 budget.

18 The Department of Transportation shall have all powers necessary to comply fully
19 with provisions of present and future federal-aid acts. No federally eligible construction
20 project may be funded entirely with State funds unless the Department of Transportation
21 has first ~~consulted with~~ reported to the Joint Legislative Commission on Governmental
22 Operations. For purposes of this section, "federally eligible construction project" means
23 any construction project except secondary road projects developed pursuant to
24 G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether
25 or not federal funds are actually available.

26 The "Current Operations Appropriations Bill" shall also contain the proposed
27 appropriations of State funds for use in each county for maintenance and construction of
28 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
29 funds appropriated for secondary roads shall not be transferred nor used except for the
30 construction and maintenance of secondary roads in the county for which they are
31 allocated pursuant to G.S. 136-44.5 and 136-44.6.

32 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
33 is greater than the amount estimated for that date in the Current Operations
34 Appropriations Act for the following fiscal year, the excess shall be used in accordance
35 with this paragraph. The Director of the Budget may allocate part or all of the excess
36 among reserves for access and public roads, for unforeseen events requiring prompt
37 action, or for other urgent needs. The amount not allocated to any of these reserves by
38 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
39 Transportation shall report monthly to the Joint Legislative Transportation Oversight
40 Committee and the Fiscal Research Division on the use of funds in the maintenance
41 reserve.

42 The Department of Transportation may provide for costs incurred or accrued for
43 traffic control measures to be taken by the Department at major events which involve a
44 high degree of traffic concentration on State highways, and which cannot be funded
45 from regular budgeted items. This authorization applies only to events which are
46 expected to generate 30,000 vehicles or more per day. The Department of
47 Transportation shall provide for this funding by allocating and reserving up to one
48 hundred thousand dollars (\$100,000) before any other allocations from the
49 appropriations for State maintenance for primary, secondary, and urban road systems
50 are made, based upon the same proportion as is appropriated to each system."
51

52 Requested by: Representatives Cole, Coates

53 **TRANSPORTATION SERVICES FOR TRADE SHOWS**

1 **SECTION 28.2.** The Department of Transportation, from funds available for
 2 public transportation in this act, may use up to one million two hundred thousand
 3 dollars (\$1,200,000) in each year of the biennium for transportation services for annual
 4 or semiannual trade shows of international significance. The Department of
 5 Transportation shall report to the Joint Legislative Transportation Oversight Committee,
 6 annually on or before March 1, on the use of these funds.

7
 8 Requested by: Representatives Cole, Coates

9 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
 10 **APPROPRIATIONS.**

11 **SECTION 28.3.(a)** The General Assembly authorizes and certifies
 12 anticipated revenues of the Highway Fund as follows:

13	For Fiscal Year 2007-2008	\$1,551.1 million
14	For Fiscal Year 2008-2009	\$1,593.0 million
15	For Fiscal Year 2009-2010	\$1,647.9 million
16	For Fiscal Year 2010-2011	\$1,716.1 million

17 **SECTION 28.3.(b)** The General Assembly authorizes and certifies
 18 anticipated revenues of the Highway Trust Fund as follows:

19	For Fiscal Year 2007-2008	\$1,136.9 million
20	For Fiscal Year 2008-2009	\$1,186.4 million
21	For Fiscal Year 2009-2010	\$1,229.6 million
22	For Fiscal Year 2010-2011	\$1,283.2 million

23
 24 Requested by: Representatives Cole, Coates

25 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

26 **SECTION 28.4.** Of the funds appropriated in this act to the Department of
 27 Transportation:

- 28 (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each
 29 fiscal year for small construction projects reviewed and approved by
 30 the Division Engineer and the member of the Board of Transportation
 31 representing the Division in which the project is to be constructed.
 32 These funds shall be allocated equally in each fiscal year of the
 33 biennium among the 14 Highway Divisions for small construction
 34 projects.
- 35 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2005-2006 and
 36 fifteen million dollars (\$15,000,000) in fiscal year 2006-2007 shall be
 37 used statewide for rural or small urban highway improvements and
 38 related transportation enhancements to public roads and public
 39 facilities, industrial access roads, and spot safety projects, including
 40 pedestrian walkways that enhance highway safety. Projects funded
 41 pursuant to this subdivision shall be reviewed and approved by the
 42 member of the Board of Transportation representing the Division in
 43 which the project is to be constructed.

44 None of these funds used for rural secondary road construction are subject to
 45 the county allocation formulas in G.S. 136-44.5(b) and (c).

46 These funds are not subject to G.S. 136-44.7.

47 The Department of Transportation shall report to the members of the General
 48 Assembly on projects funded pursuant to this section in each member's district prior to
 49 the Board of Transportation's action. The Department shall make a quarterly
 50 comprehensive report on the use of these funds to the Joint Legislative Transportation
 51 Oversight Committee and the Fiscal Research Division.

52
 53 Requested by: Representatives Cole, Coates

USE OF EXCESS OVERWEIGHT/OVERSIZE FEES

SECTION 28.5. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-119.1. Use of excess overweight and oversize fees.

Funds generated by overweight and oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads."

Requested by: Representatives Cole, Coates

STATE USE OF NORTH CAROLINA RAILROAD DIVIDENDS

SECTION 28.7. G.S. 124-5.1(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company received by the State shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Any dividends of the North Carolina Railroad Company received by the State shall be used by the Department of Transportation for the improvement of the property of the North Carolina Railroad Company as recommended and approved by the Board of Directors of the North Carolina Railroad Company. The improvements may include the following project types:

- (1) Railroad and industrial track rehabilitation and installation in high traffic areas.
- (2) Railroad signal and grade crossing protection.
- (3) Bridge improvements.
- (4) Corridor protection.
- (5) Industrial site acquisition."

Requested by: Representatives Cole, Coates

ANALYSIS AND APPROVAL OF RULES, POLICIES, OR GUIDELINES AFFECTING DEPARTMENT OF TRANSPORTATION PROJECTS

SECTION 28.8.(a) G.S. 150B-21.4 is amended by adding a new subsection

to read:

"(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation before the agency publishes the proposed text of the rule change in the North Carolina Register. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1)."

SECTION 28.8.(b) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-44.7C. Analysis and approval of Department of Transportation environmental policies or guidelines affecting transportation projects.

(a) Analysis Required. – The Department of Transportation shall conduct an analysis of any proposed environmental policy or guideline adopted by the Department

1 that affects Department of Transportation projects to determine if the policy or guideline
2 will result in an increased cost to Department of Transportation projects.

3 (b) Report of Analysis; Approval of Policy or Guideline Required. – The analysis
4 of a proposed policy or guideline required by subsection (a) of this section shall be
5 reported to the Board of Transportation at least 30 days prior to the proposed effective
6 date of the policy or guideline, and shall not go into effect until approved by the Board
7 of Transportation."

8
9 Requested by: Representatives Cole, Coates

10 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**
11 **PROGRAMS**

12 **SECTION 28.9.(a)** The Department of Transportation may continue the
13 productivity pilot programs in the road oil and bridge inspection units implemented
14 under Section 29.3 of S.L. 2003-284. The Department of Transportation may expend up
15 to one-half of one percent (.50%) of the budget allocation for these programs for
16 employee incentive payments to maintain the increased efficiency and productivity
17 under these programs.

18 **SECTION 28.9.(b)** The Department of Transportation may establish two
19 additional pilot programs to test incentive pay for employees as a means of increasing
20 and maintaining efficiency and productivity.

21 One of the new pilot programs shall involve the Pavement Markings Unit.
22 The other pilot program may be selected by the Department of Transportation. Up to
23 one-half of one percent (.50%) of the budget allocation for these programs may be used
24 to provide employee incentive payments.

25 Incentive payments shall be based on quantifiable measures and production
26 schedules determined prior to the implementation of the pilot programs. Pilot programs
27 implemented under this subsection shall last no more than two years.

28 The Department of Transportation shall report to the Joint Legislative
29 Transportation Oversight Committee on the pilot programs developed under this
30 subsection at least 30 days prior to their implementation.

31
32 Requested by: Representatives Cole, Coates

33 **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
34 **CONTRACTS**

35 **SECTION 28.10.** The Department of Transportation may implement up to
36 two performance-based contracts for routine maintenance and operations, exclusive of
37 resurfacing. Selection of firms to perform this work shall be made using a best-value
38 procurement process.

39 Prior to any advertisement for a proposed project the Department shall report
40 to the Joint Legislative Transportation Oversight Committee on the contractor selection
41 criteria to be used.

42
43 Requested by: Representatives Cole, Coates

44 **DEPARTMENT OF TRANSPORTATION REORGANIZATION**

45 **SECTION 28.11.(a)** The Secretary of Transportation shall transfer the
46 Program Development Branch, as it existed on May 1, 2005, from the Deputy Secretary
47 for Environmental, Planning and Local Government Affairs to the Chief Financial
48 Officer of the Department of Transportation.

49 **SECTION 28.11.(b)** The Secretary of Transportation shall transfer the
50 Transportation Planning Branch, as it existed on May 1, 2005, from the Deputy
51 Secretary for Environmental, Planning and Local Government Affairs to the State
52 Highway Administrator.

1 **SECTION 28.11.(c)** The Secretary of Transportation shall transfer the
2 Project Development and Environmental Analysis Branch, as it existed on May 1, 2005,
3 from the Deputy Secretary for Environmental, Planning and Local Government Affairs
4 to the State Highway Administrator.

5 **SECTION 28.11.(d)** The position of Deputy Secretary for Environmental,
6 Planning and Local Government Affairs shall be eliminated.

7 **SECTION 28.11.(e)** The position of Special Assistant for Environmental,
8 Planning and Local Government Affairs shall be eliminated.

9 **SECTION 28.11.(f)** All vacant positions in the Project Development and
10 Environmental Analysis Branch as of April 15, 2005, shall be eliminated except for any
11 vacant position associated with an employee on an approved leave without pay status.
12 Once these positions are eliminated, the Department of Transportation shall not reinstate
13 these positions without the authorization of the General Assembly.

14
15 Requested by: Representatives Cole, Coates

16 **CONTINUING AVIATION APPROPRIATIONS**

17 **SECTION 28.12.(a)** G.S. 136-16.4 is repealed.

18 **SECTION 28.12.(b)** G.S. 136-16.5 is repealed.

19
20 Requested by: Representatives Cole, Coates

21 **DEPARTMENT OF TRANSPORTATION AUTHORITY TO PROVIDE**
22 **WAY-FINDING SIGNS FOR THE ROANOKE VOYAGES CORRIDOR**
23 **COMMISSION AND THE BLUE RIDGE NATIONAL HERITAGE AREA**
24 **PARTNERSHIP**

25 **SECTION 28.14.(a)** Chapter 1194 of the 1981 Session Laws is amended by
26 adding a new section that reads:

27 "Sec. 7.2. At the request of the Roanoke Voyages Corridor Commission, the
28 Department of Transportation may manufacture and install, on Roanoke Island and up
29 to 30 miles off the island, way-finding signs that, by color, design, and lettering, do not
30 comply with normal transportation signage standards. These signs shall be used to
31 identify and give directions to historic, educational, and cultural attractions on the
32 island. The Department of Transportation shall not erect any signage that would be
33 impracticable, unfeasible, or that would result in an unsafe or hazardous condition."

34 **SECTION 28.14.(b)** At the request of the Blue Ridge National Heritage
35 Area Partnership, as established by Public Law 108-108, Title I, Section 140(d)(3), the
36 Department of Transportation may manufacture and install way-finding signs that, by
37 color, design, and lettering, do not comply with normal transportation signage
38 standards. Signage throughout the 25-county area, as defined in Public Law 108-108,
39 Title I, Section 140(d)(2), of the Blue Ridge National Heritage Area shall be used to
40 identify and give directions to historic, educational, and cultural attractions. The
41 Department of Transportation shall not erect any signage that would be impracticable,
42 unfeasible, or that would result in an unsafe or hazardous condition.

43
44 Requested by: Representatives Cole, Coates

45 **REVENUE TAX EVASION PROJECT**

46 **SECTION 28.15.** Of funds appropriated to Highway Trust Fund
47 Administration, the sum of five hundred forty-eight thousand six hundred thirty-three
48 dollars (\$548,633) for the 2005-2006 fiscal year and the sum of four hundred seventy
49 thousand seven hundred one dollars (\$470,701) for the 2006-2007 fiscal year shall be
50 used to establish and support nine positions in the Department of Revenue, Motor Fuels
51 Tax Division, to fully implement the Revenue Tax Evasion Project.

52
53 Requested by: Representatives Cole, Coates

MODIFY GLOBAL TRANSPARK DEBT

SECTION 28.17. G.S. 147-69.2(b)(11) reads as rewritten:

"(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 ~~July 1, 2005.~~ October 1, 2007. 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."

Requested by: Representatives Cole, Coates

REPORT ON STORMWATER PILOT PROJECT

SECTION 28.19. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by August 1, 2005 on its plan to clean up ocean outfalls in accordance with Section 30.20 of S.L. 2004-124.

Requested by: Representatives Cole, Coates

ESTABLISHING TOLLWAYS ON FEDERALLY FUNDED HIGHWAYS DESIGNATED AS INTERSTATES

SECTION 28.21.(a) The North Carolina Department of Transportation shall apply to the United States Department of Transportation for a permit to allow tolling on established interstate highways in North Carolina.

SECTION 28.21.(b) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-89.198. Authority to toll existing interstate highways.

Notwithstanding any other provision of this Article, the Authority may collect tolls on any existing interstate highway for which the United States Department of Transportation has granted permission by permit, or any other lawful means, to do so. The revenue generated from the collected tolls shall be used by the Authority to repair and maintain the interstate on which the tolls were collected. These revenues shall not be used to repair, maintain, or upgrade any State primary or secondary road adjacent to or connected with the interstate highways."

Requested by: Representatives Cole, Coates, Brubaker, Stam

FUNDING FOR CONDEMNATION PROJECTS

SECTION 28.22. The Department of Transportation shall not expend any federal or State funds, or any private or donated funds as a deposit for, or for the condemnation of, any land in Randolph County on the west side of New Salem Road within 150 feet of its intersection with Bethel Church Road or on the south side of Bethel Church Road within 50 feet of its intersection with New Salem Road. The

1 Department shall cause any pending condemnation actions affecting the property
 2 described in this section, and filed in compliance with G.S. 136-103, to be dismissed.

3
 4 **PART XXIX. SALARIES AND EMPLOYEE BENEFITS**

5
 6 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 7 Michaux

8 **GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES**

9 **SECTION 29.1.(a)** Effective July 1, 2005, G.S. 147-11(a) reads as
 10 rewritten:

11 "(a) The salary of the Governor shall be ~~one hundred twenty one thousand three~~
 12 ~~hundred ninety one dollars (\$121,391)~~ one hundred twenty-four thousand four hundred
 13 twenty-six dollars (\$124,426) annually, payable monthly."

14 **SECTION 29.1.(b)** Effective July 1, 2005, the annual salaries for the
 15 members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007
 16 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$109,814
Attorney General	109,814
Secretary of State	109,814
State Treasurer	109,814
State Auditor	109,814
Superintendent of Public Instruction	109,814
Agriculture Commissioner	109,814
Insurance Commissioner	109,814
Labor Commissioner	109,814

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 29 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 30 Michaux

31 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

32 **SECTION 29.2.** In accordance with G.S. 143B-9, the maximum annual
 33 salaries, payable monthly, for the nonelected heads of the principal State departments
 34 for the 2005-2006 and 2006-2007 fiscal years are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$107,289
Secretary of Correction	107,289
Secretary of Crime Control and Public Safety	107,289
Secretary of Cultural Resources	107,289
Secretary of Commerce	107,289
Secretary of Environment and Natural Resources	107,289
Secretary of Health and Human Services	107,289
Secretary of Juvenile Justice and Delinquency Prevention	107,289
Secretary of Revenue	107,289
Secretary of Transportation	107,289

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 48 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 49 Michaux

50 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

51 **SECTION 29.3.** The annual salaries, payable monthly, for the 2005-2006
 52 and 2006-2007 fiscal years for the following executive branch officials are:
 53

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
1	Chairman, Alcoholic Beverage Control Commission	\$97,652
2	State Controller	136,663
3	Commissioner of Motor Vehicles	97,652
4	Commissioner of Banks	109,814
5	Chairman, Employment Security Commission	133,161
6	State Personnel Director	107,289
7	Chairman, Parole Commission	89,168
8	Members of the Parole Commission	41,161
9	Chairman, Utilities Commission	122,298
10	Members of the Utilities Commission	109,814
11	Executive Director, Agency for Public Telecommunications	82,323
12	Director, Museum of Art	100,062
13	Executive Director, North Carolina Agricultural	
14	Finance Authority	95,050
15	State Chief Information Officer	136,581
16		

17
18 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
19 Michaux

20 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

21 **SECTION 29.4.(a)** The annual salaries, payable monthly, for specified
22 Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
24	Chief Justice, Supreme Court	\$124,426
25	Associate Justice, Supreme Court	121,174
26	Chief Judge, Court of Appeals	118,145
27	Judge, Court of Appeals	116,125
28	Judge, Senior Regular Resident Superior Court	112,970
29	Judge, Superior Court	109,814
30	Chief Judge, District Court	99,717
31	Judge, District Court	96,562
32	Administrative Officer of the Courts	112,970
33	Assistant Administrative Officer of the Courts	103,188

34
35 **SECTION 29.4.(b)** The district attorney or public defender of a judicial
36 district, with the approval of the Administrative Officer of the Courts or the
37 Commission on Indigent Defense Services, respectively, shall set the salaries of
38 assistant district attorneys or assistant public defenders, respectively, in that district such
39 that the average annual salaries of assistant district attorneys or assistant public
40 defenders in that district do not exceed sixty-three thousand two hundred thirty-eight
41 dollars (\$63,238), and the minimum annual salary of any assistant district attorney or
42 assistant public defender is at least thirty-two thousand eight hundred thirty-six dollars
43 (\$32,836), effective July 1, 2005.

44 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
45 full-time employees of the Judicial Department whose salaries are not itemized in this
46 act shall be increased by the greater of five hundred dollars (\$500.00) or two and
47 five-tenths percent (2.5%).

48 **SECTION 29.4.(d)** Effective July 1, 2005, the annual salaries of permanent,
49 part-time employees of the Judicial Department whose salaries are not itemized in this
50 act shall be increased by pro rata amounts of five hundred dollars (\$500.00) or two and
51 five-tenths percent (2.5%), whichever is greater.

52

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux

3 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

4 **SECTION 29.5.** Effective July 1, 2005, G.S. 7A-101(a) reads as rewritten:

5 "(a) The clerk of superior court is a full-time employee of the State and shall
6 receive an annual salary, payable in equal monthly installments, based on the population
7 of the county as determined in subsection (a1) of this section, according to the following
8 schedule:

Population	Annual Salary
Less than 100,000	\$71,659 <u>\$73,450</u>
100,000 to 149,999	80,413 <u>82,423</u>
150,000 to 249,999	89,169 <u>91,398</u>
250,000 and above	97,925 <u>100,373.</u>

14 The salary schedule in this subsection is intended to represent the following
15 approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

21 When a county changes from one population group to another, the salary of the clerk
22 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
23 salary appropriate for the new population group, except that the salary of an incumbent
24 clerk shall not be decreased by any change in population group during his continuance
25 in office."

27 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
28 Michaux

29 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

30 **SECTION 29.6.** Effective July 1, 2005, G.S. 7A-102(c1) reads as rewritten:

31 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
32 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
33 subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$27,515 <u>\$28,203</u>
Maximum	47,626 <u>48,817</u>
 Deputy Clerks	 Annual Salary
Minimum	\$23,565 <u>\$24,154</u>
Maximum	36,934. <u>37,857."</u>

42 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
43 Michaux

44 **MAGISTRATES' SALARY INCREASES**

45 **SECTION 29.7.(a)** Effective July 1, 2005, G.S. 7A-171.1(a) reads as
46 rewritten:

47 "(a) The Administrative Officer of the Courts, after consultation with the chief
48 district judge and pursuant to the following provisions, shall set an annual salary for
49 each magistrate.

- 50 (1) A full-time magistrate shall be paid the annual salary indicated in the
51 table set out in this subdivision. A full-time magistrate is a magistrate
52 who is assigned to work an average of not less than 40 hours a week
53 during the term of office. The Administrative Officer of the Courts

1 shall designate whether a magistrate is full-time. Initial appointment
 2 shall be at the entry rate. A magistrate's salary shall increase to the
 3 next step every two years on the anniversary of the date the magistrate
 4 was originally appointed for increases to Steps 1 through 3, and every
 5 four years on the anniversary of the date the magistrate was originally
 6 appointed for increases to Steps 4 through 6.

7
 8 **Table of Salaries of Full-Time Magistrates**

9

Step Level	Annual Salary	
Entry Rate	\$27,889	<u>\$28,586</u>
Step 1	30,525	<u>31,288</u>
Step 2	33,393	<u>34,228</u>
Step 3	36,523	<u>37,436</u>
Step 4	39,952	<u>40,951</u>
Step 5	43,789	<u>44,884</u>
Step 6	48,036	<u>49,237</u>

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 18 (2) A part-time magistrate is a magistrate who is assigned to work an
 19 average of less than 40 hours of work a week during the term, except
 20 that no magistrate shall be assigned an average of less than 10 hours of
 21 work a week during the term. A part-time magistrate is included, in
 22 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)
 23 and G.S. 135-40.2(a). The Administrative Officer of the Courts
 24 designates whether a magistrate is a part-time magistrate. A part-time
 25 magistrate shall receive an annual salary based on the following
 26 formula: The average number of hours a week that a part-time
 27 magistrate is assigned work during the term shall be multiplied by the
 28 annual salary payable to a full-time magistrate who has the same
 29 number of years of service prior to the beginning of that term as does
 30 the part-time magistrate and the product of that multiplication shall be
 31 divided by the number 40. The quotient shall be the annual salary
 32 payable to that part-time magistrate.

33 (3) Notwithstanding any other provision of this subsection, a magistrate
 34 who is licensed to practice law in North Carolina or any other state
 35 shall receive the annual salary provided in the Table in subdivision (1)
 36 of this subsection for Step 4."

37 **SECTION 29.7.(b)** Effective July 1, 2005, G.S. 7A-171.1(a1) reads as

38 rewritten:

39 "(a1) Notwithstanding subsection (a) of this section, the following salary provisions
 40 apply to individuals who were serving as magistrates on June 30, 1994:

41 (1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 42 level of less than five years of service under the table in effect that date
 43 shall be as follows:

Less than 1 year of service	\$22,325	<u>\$22,883</u>
1 or more but less than 3 years of service	23,389	<u>23,974</u>
3 or more but less than 5 years of service	25,530	<u>26,168</u>

44
 45
 46
 47 Upon completion of five years of service, those magistrates shall
 48 receive the salary set as the Entry Rate in the table in subsection (a).

49 (2) The salaries of magistrates who on June 30, 1994, were paid at a salary
 50 level of five or more years of service shall be based on the rates set out
 51 in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
----------------------------------	---------------------------------

1	5 or more but less than 7 years of service	Entry Rate
2	7 or more but less than 9 years of service	Step 1
3	9 or more but less than 11 years of service	Step 2
4	11 or more years of service	Step 3

5 Thereafter, their salaries shall be set in accordance with the
6 provisions in subsection (a).

7 (3) The salaries of magistrates who are licensed to practice law in North
8 Carolina shall be adjusted to the annual salary provided in the table in
9 subsection (a) as Step 4, and, thereafter, their salaries shall be set in
10 accordance with the provisions in subsection (a).

11 (4) The salaries of "part-time magistrates" shall be set under the formula
12 set out in subdivision (2) of subsection (a) but according to the rates
13 set out in this subsection."
14

15 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
16 Michaux

17 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

18 **SECTION 29.8.** Effective July 1, 2005, G.S. 120-37(c) reads as rewritten:

19 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
20 entitled to other benefits available to permanent legislative employees and shall be paid
21 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-two
22 thousand seven hundred seventy-seven dollars (\$92,777) payable monthly. The
23 Legislative Services Commission shall review the salary of the principal clerks prior to
24 submission of the proposed operating budget of the General Assembly to the Governor
25 and Advisory Budget Commission and shall make appropriate recommendations for
26 changes in those salaries. Any changes enacted by the General Assembly shall be by
27 amendment to this paragraph."
28

29 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
30 Michaux

31 **SERGEANTS-AT-ARMS AND READING CLERKS**

32 **SECTION 29.9.** Effective July 1, 2005, G.S. 120-37(b) reads as rewritten:

33 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
34 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred twenty-one dollars
35 (\$321.00) per week plus subsistence at the same daily rate provided for members of the
36 General Assembly, plus mileage at the rate provided for members of the General
37 Assembly for one round trip only from their homes to Raleigh and return. The
38 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
39 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
40 be authorized by the Legislative Services Commission. The reading clerks shall serve
41 during sessions only."
42

43 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
44 Michaux

45 **LEGISLATIVE EMPLOYEES**

46 **SECTION 29.10.** Effective July 1, 2005, the Legislative Services Officer
47 shall increase the salaries of nonelected employees of the General Assembly in effect
48 for fiscal year 2005-2006 by the greater of five hundred dollars (\$500.00) or two and
49 five-tenths percent (2.5%). Nothing in this act limits any of the provisions of
50 G.S. 120-32.
51

52 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
53 Michaux

COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES

SECTION 29.11. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or two and five-tenths percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all community college employees supported by State funds.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION

SECTION 29.12.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or two and five-tenths percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an average annual salary increase of two and five-tenths percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

MOST STATE EMPLOYEES/SALARY INCREASES

SECTION 29.13.(a) The salaries in effect June 30, 2005, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act and who are paid from the General Fund or the Highway Fund shall be increased, effective July 1, 2005, by the greater of five hundred dollars (\$500.00) or two and five-tenths percent (2.5%), unless otherwise provided by this act.

SECTION 29.13.(b) Except as otherwise provided in this act, the salaries in effect June 30, 2005, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by the greater of five hundred dollars (\$500.00) or two and five-tenths percent (2.5%), effective July 1, 2005, unless otherwise provided by this act.

SECTION 29.13.(c) The salaries in effect June 30, 2005, for all permanent part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts of five hundred dollars (\$500.00) or two and five-tenths percent (2.5%), whichever is greater.

SECTION 29.13.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues,

1 sufficient funds to allow a salary increase, effective July 1, 2005, in accordance with
2 subsection (a), (b), or (c) of this section, including funds for the employer's retirement
3 and social security contributions, for the permanent full-time and part-time employees
4 of the agency, provided the employing agency elects to make available the necessary
5 funds.

6 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
7 limited by this act, all State agencies and departments may increase on an equitable
8 basis the rate of pay of temporary and permanent hourly State employees, subject to
9 availability of funds in the particular agency or department, by pro rata amounts of the
10 greater of the five hundred dollars (\$500.00) or two and five-tenths percent (2.5%)
11 increase provided for permanent full-time employees covered by the provisions of
12 subsection (a) of this section, commencing July 1, 2005.

13
14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
15 Michaux

16 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

17 **SECTION 29.14.(a)** Salaries and related benefits for positions that are
18 funded partially from the General Fund or Highway Fund and partially from sources
19 other than the General Fund or Highway Fund shall be increased from the General Fund
20 or Highway Fund appropriation only to the extent of the proportionate part of the
21 salaries paid from the General Fund or Highway Fund.

22 **SECTION 29.14.(b)** The granting of the salary increases under this act does
23 not affect the status of eligibility for salary increments for which employees may be
24 eligible unless otherwise required by this act.

25 **SECTION 29.14.(c)** The salary increases provided in this act are to be
26 effective July 1, 2005, and do not apply to persons separated from State service due to
27 resignation, dismissal, reduction in force, death, or retirement, or whose last workday is
28 prior to July 1, 2005.

29 Payroll checks issued to employees after July 1, 2005, which represent
30 payment of services provided prior to July 1, 2005, shall not be eligible for salary
31 increases provided for in this act. This subsection shall apply to all employees, subject
32 to or exempt from the State Personnel Act, paid from State funds, including public
33 schools, community colleges, and The University of North Carolina.

34 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the
35 Reserve for Compensation Increases in this act for fiscal year 2005-2006 all funds
36 necessary for the salary increases provided by this act, including funds for the
37 employer's retirement and social security contributions.

38 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds
39 between the General Fund and the Highway Fund for salary increases.

40
41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux

43 **SALARY ADJUSTMENT FUND**

44 **SECTION 29.15.(a)** Any remaining appropriations in the Reserve for
45 Compensation Increases authorized for employee salary increases not required for that
46 purpose may be used to supplement the Salary Adjustment Fund.

47 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the
48 Salary Adjustment Fund by this act or any other provision of law shall be used to fund
49 agency requests for the following purposes:

- 50 (1) Salary range revisions to provide competitive salary rates for affected
51 job classifications in response to changes in labor market salary rates
52 as documented through data collection and analysis according to
53 accepted human resource professional practices and standards.

- 1 (2) Reallocation of positions to higher-level job classifications to
2 compensate employees for more difficult duties at competitive salary
3 rates as documented through data collection and analysis according to
4 accepted human resource professional practices and standards.

5 Priority funding shall be given to those salary range revisions previously
6 approved by the State Personnel Commission and reallocations previously approved by
7 the Office of State Personnel or designee.

8 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
9 Legislative Commission on Governmental Operations prior to transferring any salary
10 adjustment funds for any State agency.

11 **SECTION 29.15.(d)** The Director of the Budget may transfer to General
12 Fund budget codes from the General Fund Salary Adjustment Fund and may transfer to
13 Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts
14 required to support salary adjustments authorized by this section.

15 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding
16 authorized in subsection (a) of this section.

17
18 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
19 Michaux

20 **STATE AGENCY TEACHERS' COMPENSATION**

21 **SECTION 29.17.** Funds in the Reserve for Compensation Increases shall be
22 used for experience step increases for employees of schools operated by the Department
23 of Health and Human Services, the Department of Correction, or the Department of
24 Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary
25 Schedule or the School Based Administrator Salary Schedule.

26
27 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
28 Michaux

29 **STATE GOVERNMENT EMPLOYMENT FAIR MINIMUM WAGE**

30 **SECTION 29.18.(a)** All permanent, full-time employees subject to the State
31 Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred
32 twelve dollars (\$20,112) per year. Permanent, full-time employees subject to the State
33 Personnel Act working on a schedule requiring less than 12 months' service per year
34 shall be paid the minimum salary pro rata.

35 **SECTION 29.18.(b)** The Director of the Budget may transfer from the
36 Reserve for Compensation Increases funds necessary to effectuate the State minimum
37 wage established by subsection (a) of this section, except that The University of North
38 Carolina shall use available funds to make State minimum wage salary adjustments.

39 **SECTION 29.18.(c)** The fair minimum wage salary adjustment provided by
40 this section shall be calculated and awarded after any across-the-board salary increases
41 authorized by this act.

42
43 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
44 Michaux

45 **SALARY SUPPLEMENTS FOR PERSONNEL EMPLOYED IN CERTAIN 46 STATE AGENCIES**

47 **SECTION 29.19.(a)** G.S. 143B-146.21 is amended by adding a new
48 subsection to read:

49 "(e) The Secretary of Health and Human Services, in consultation with the Office
50 of State Personnel, shall set the salary supplement paid to personnel who are employed
51 in the programs operated by the Department of Health and Human Services and are
52 licensed by the State Board of Education. The minimum salary supplement shall be at
53 least five percent (5%). The maximum salary supplement shall be ten percent (10%) or

1 the percentage supplement the personnel would receive if the personnel were employed
 2 in the LEA where the job site is located, whichever is less. These salary supplements
 3 shall not be paid to central office staff. Nothing in this subsection shall be construed to
 4 include "merit pay" under the term "salary supplement".

5 **SECTION 29.19.(b)** G.S. 143B-516(b) is amended by adding the following
 6 new subdivision to read:

7 "(b) The Secretary shall have the following powers and duties:

8
 9 (17a) Set, in consultation with the Office of State Personnel, the salary
 10 supplement paid to personnel who are employed at juvenile facilities
 11 and are licensed by the State Board of Education. The minimum salary
 12 supplement shall be at least five percent (5%). The maximum salary
 13 supplement shall be ten percent (10%) or the percentage supplement
 14 the personnel would receive if the personnel were employed in the
 15 LEA where the job site is located, whichever is less. These salary
 16 supplements shall not be paid to central office staff. Nothing in this
 17 subdivision shall be construed to include "merit pay" under the term
 18 "salary supplement".

19 "...."

20 **SECTION 29.19.(c)** G.S. 148-22.1 is amended by adding a new subsection
 21 to read:

22 "(c) The Secretary of Correction, in consultation with the Office of State
 23 Personnel, shall set the salary supplement paid to personnel who are Division of Prison
 24 employees and are licensed by the State Board of Education. The minimum salary
 25 supplement shall be at least five percent (5%). The maximum salary supplement shall be
 26 ten percent (10%) or the percentage supplement the personnel would receive if the
 27 personnel were employed in the LEA where the job site is located, whichever is less.
 28 These salary supplements shall not be paid to central office staff. Nothing in this
 29 subsection shall be construed to include "merit pay" under the term "salary supplement".

30
 31 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 32 Michaux

33 **INDUSTRIAL COMMISSION SALARIES/IN-RANGE SALARY**
 34 **ADJUSTMENTS**

35 **SECTION 29.20.(a)** Of the revenue generated by implementing a fee for the
 36 required review of Form 21 and Form 26 Agreements, the Industrial Commission may
 37 use up to four hundred sixty-five thousand dollars (\$465,000) in each year of the
 38 2005-2007 biennium to provide the salary adjustments authorized by subsection (b) of
 39 this section and in-range salary adjustments for Industrial Commission staff.

40 **SECTION 29.20.(b)** Effective July 1, 2005, G.S. 97-78 reads as rewritten:

41 **"§ 97-78. Salaries and expenses; administrator, executive secretary, deputy**
 42 **commissioners, and other staff assistance; annual report.**

43 (a) The salary of each commissioner shall be the same as that fixed from time to
 44 time for district attorneys except that the commissioner designated as chair shall receive
 45 one thousand five hundred dollars (\$1,500) additional per annum.

46 (b) The Commission may appoint an administrator whose duties shall be
 47 prescribed by the Commission, and who shall be subject to the State Personnel System.
 48 The Commission may appoint an executive secretary whose duties shall be prescribed
 49 by the Commission, and who shall be subject to the State Personnel System and who,
 50 upon entering upon his duties, shall give bond in such sum as may be fixed by the
 51 Commission. The Commission may also employ such clerical or other assistance as it
 52 may deem necessary, and fix the compensation of its staff, except that the salaries of the
 53 administrator and the executive secretary shall be fixed by subsection (b1) of this

1 section. The compensation of Commission staff shall be in keeping with the
2 compensation paid to the persons employed to do similar work in other State
3 departments.

4 (b1) The salary of the administrator shall be ninety percent (90%) of the salary of
5 a commissioner. The salary of the executive secretary shall be ~~eighty percent (80%)~~
6 ninety percent (90%) of the salary of a commissioner. ~~In lieu of merit and other~~
7 ~~incremental raises, the administrator and the executive secretary shall receive longevity~~
8 ~~pay on the same basis as is provided to other employees subject to the State Personnel~~
9 ~~Act.~~

10 (b2) The Chairman of the Industrial Commission shall designate one deputy
11 commissioner as chief deputy commissioner. Deputy commissioners with seven or more
12 years of service as a deputy commissioner shall be designated and compensated as
13 senior deputy commissioners.

14 (b3) The salary of the chief deputy commissioner shall be ninety percent (90%) of
15 the salary of a commissioner. The salary of a senior deputy commissioner shall be
16 eight-five percent (85%) of the salary of a commissioner. The salary of a deputy
17 commissioner shall be eight percent (80%) of the salary of a commissioner.

18 (b4) The salary of an agency legal specialist assigned to the Executive Secretary's
19 Office and designated as a special deputy commissioner shall be fifty-five percent
20 (55%) of the salary of a commissioner.

21 (b5) In lieu of merit and other incremental raises, the administrator, executive
22 secretary, chief deputy commissioner, senior deputy commissioners, deputy
23 commissioners, and special deputy commissioners shall receive longevity pay on the
24 same basis as is provided to other employees subject to the State Personnel Act.

25 (c) The members of the Commission and its assistants shall be entitled to receive
26 from the State their actual and necessary expenses while traveling on the business of the
27 Commission, but such expenses shall be certified by the person who incurred the same,
28 and shall be approved by the chairman of the Commission before payment is made.

29 (d) All salaries and expenses of the Commission shall be audited and paid out of
30 the State treasury, in the manner prescribed for similar expenses in other departments or
31 branches of the State service, and to defray such salaries and expenses a sufficient
32 appropriation shall be made under the General Appropriation Act as made to other
33 departments, commissions and agencies of the State government.

34 (e) The Commission shall publish annually for free distribution a report of the
35 administration of this Article, together with such recommendations as the Commission
36 deems advisable."
37

38 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
39 Michaux

40 **ESC CHAIRMAN PROSPECTIVE SALARY CHANGE**

41 **SECTION 29.20A.** Effective upon the appointment of the next Chairman of
42 the Employment Security Commission of North Carolina, G.S. 96-3(c) reads as
43 rewritten:

44 "(c) Salaries. – The chairman of the Employment Security Commission of North
45 Carolina, appointed by the Governor, shall be paid from the Employment Security
46 Administration Fund a salary payable on a monthly basis, which salary shall be the
47 same as the salary fixed by the General Assembly in the Current Operations
48 Appropriations Act; ~~Act for the Secretary of Commerce,~~ and the members of the
49 Commission, other than the chairman, shall each receive the same amount per diem for
50 their services as is provided for the members of other State boards, commissions, and
51 committees who receive compensation for their services as such, including necessary
52 time spent in traveling to and from his place of residence within the State to the place of

1 meeting while engaged in the discharge of the duties of his office and his actual
2 traveling expenses, the same to be paid from the aforesaid fund."
3

4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

6 **NCSU AGRICULTURAL PROGRAM EMPLOYEES**

7 **SECTION 29.22.** The Board of Governors of The University of North
8 Carolina shall use up to three million seven hundred thousand dollars (\$3,700,000) from
9 tuition receipts to support additional salary increases for Agricultural Program
10 employees of North Carolina State University who are exempt from the State Personnel
11 Act.
12

13 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
14 Michaux

15 **LONGEVITY SERVICE DEFINITION/ADDITIONAL LONGEVITY STEP**

16 **SECTION 29.23.(a)** G.S. 7A-10(c) reads as rewritten:

17 "(c) In lieu of merit and other increment raises paid to regular State employees,
18 the Chief Justice and each of the Associate Justices shall receive as longevity pay an
19 annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set
20 forth in the Current Operations Appropriations Act payable monthly after five years of
21 service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and
22 four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths
23 percent (19.2%) after 20 years of service, and twenty-four percent (24%) after
24 25 years of service. "Service" means service as a justice or judge of the General Court
25 of Justice or as a member of the Utilities Commission. Service shall also mean service
26 as a district attorney or as a clerk of superior ~~court.~~ court, or service as a member of the
27 General Assembly."

28 **SECTION 29.23.(b)** G.S. 7A-18(b) reads as rewritten:

29 "(b) In lieu of merit and other increment raises paid to regular State employees, a
30 judge of the Court of Appeals shall receive as longevity pay an annual amount equal to
31 four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
32 Operations Appropriations Act payable monthly after five years of service, nine and
33 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
34 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
35 years of service, and twenty-four percent (24%) after 25 years of service.
36 "Service" means service as a justice or judge of the General Court of Justice or as a
37 member of the Utilities Commission. Service shall also mean service as a district
38 attorney or as a clerk of superior ~~court.~~ court, or service as a member of the General
39 Assembly."

40 **SECTION 29.23.(c)** G.S. 7A-44(b) reads as rewritten:

41 "(b) In lieu of merit and other increment raises paid to regular State employees, a
42 judge of the superior court, regular or special, shall receive as longevity pay an annual
43 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
44 Current Operations Appropriations Act payable monthly after five years of service, nine
45 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
46 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
47 years of service, and twenty-four percent (24%) after 25 years of service.
48 "Service" means service as a justice or judge of the General Court of Justice or as a
49 member of the Utilities Commission or as director or assistant director of the
50 Administrative Office of the Courts. Service shall also mean service as a district
51 attorney or as a clerk of superior ~~court.~~ court, or service as a member of the General
52 Assembly."

53 **SECTION 29.23.(d)** G.S. 7A-144(b) reads as rewritten:

1 "(b) Notwithstanding merit, longevity and other increment raises paid to regular
2 State employees, a judge of the district court shall receive as longevity pay an annual
3 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
4 Current Operations Appropriations Act payable monthly after five years of service, nine
5 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
6 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
7 years of service. service, and twenty-four percent (24%) after 25 years of service.
8 "Service" means service as a justice or judge of the General Court of Justice or as a
9 member of the Utilities Commission or as director or assistant director of the
10 Administrative Office of the Courts. Service shall also mean service as a district
11 attorney or as a clerk of superior ~~court.~~ court, or service as a member of the General
12 Assembly."

13
14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
15 Michaux

16 **RESOURCE PROSECUTOR LONGEVITY**

17 **SECTION 29.23A.** G.S. 7A-65(d) reads as rewritten:

18 "(d) In lieu of merit and other increment raises paid to regular State employees, an
19 assistant district attorney shall receive as longevity pay an amount equal to four and
20 eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations
21 Appropriations Act payable monthly after five years of service, nine and six-tenths
22 percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after
23 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of
24 service. "Service" means service as an assistant district attorney, district attorney,
25 resource prosecutor, public defender, appellate defender, assistant public or appellate
26 defender, justice or judge of the General Court of Justice, or clerk of superior court. For
27 purposes of this subsection, "resource prosecutor" means a former assistant district
28 attorney who has left the employment of the district attorney's office to serve in a
29 specific, time-limited position with the Conference of District Attorneys."

30
31 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
32 Michaux

33 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

34 **SECTION 29.24.(a)** Required employer salary-related contributions for
35 employees whose salaries are paid from department, office, institution, or agency
36 receipts shall be paid from the same source as the source of the employees' salary. If an
37 employee's salary is paid in part from the General Fund or Highway Fund and in part
38 from department, office, institution, or agency receipts, required employer salary-related
39 contributions may be paid from the General Fund or Highway Fund only to the extent of
40 the proportionate part paid from the General Fund or Highway Fund in support of the
41 salary of the employee, and the remainder of the employer's requirements shall be paid
42 from the source that supplies the remainder of the employee's salary. The requirements
43 of this section as to source of payment are also applicable to payments on behalf of the
44 employee for hospital-medical benefits, longevity pay, unemployment compensation,
45 accumulated leave, workers' compensation, severance pay, separation allowances, and
46 applicable disability income benefits.

47 **SECTION 29.24.(b)** Effective July 1, 2005, the State's employer
48 contribution rates budgeted for retirement and related benefits as percentage of covered
49 salaries for the 2005-2006 fiscal year are: (i) six and eighty-two hundredths percent
50 (6.82%) – Teachers and State Employees; (ii) eleven and eighty-two hundredths percent
51 (11.82%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent
52 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
53 sixteen-hundredths percent (11.16%) – Community College Optional Retirement

1 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
2 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
3 Retirement System. Each of the foregoing contribution rates includes three and
4 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
5 State Employees, State Law Enforcement Officers, Community College Optional
6 Retirement Program, and for the University Employees' Optional Retirement Program
7 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
8 for Teachers and State Employees and State Law Enforcement Officers include
9 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
10 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

11 **SECTION 29.24.(c)** Effective July 1, 2006, the State's employer
12 contribution rates budgeted for retirement and related benefits as percentage of covered
13 salaries for the 2006-2007 fiscal year are: (i) six and eighty-two hundredths percent
14 (6.82%) – Teachers and State Employees; (ii) eleven and eighty-two hundredths percent
15 (11.82%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent
16 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and sixteen
17 hundredths percent (11.16%) – Community College Optional Retirement Program; (v)
18 sixteen and thirty-nine hundredths percent (16.39%) – Consolidated Judicial Retirement
19 System; and (vi) three and eight-tenths percent (3.8%) – Legislative Retirement System.
20 Each of the foregoing contribution rates includes three and eight-tenths percent (3.8%)
21 for hospital and medical benefits. The rate for Teachers and State Employees, State Law
22 Enforcement Officers, Community College Optional Retirement Program, and for the
23 University Employees' Optional Retirement Program includes fifty-two hundredths
24 percent (0.52%) for the Disability Income Plan. The rates for Teachers and State
25 Employees and State Law Enforcement Officers include sixteen hundredths percent
26 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers
27 includes five percent (5%) for Supplemental Retirement Income.

28 **SECTION 29.24.(d)** The maximum annual employer contributions, payable
29 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year
30 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
31 Medicare-eligible employees and retirees – two thousand nine hundred twenty-two
32 dollars (\$2,922) and (ii) non-Medicare-eligible employees and retirees – three thousand
33 eight hundred thirty-eight dollars (\$3,838).

34 **SECTION 29.24.(e)** The maximum annual employer contributions, payable
35 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year
36 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
37 Medicare-eligible employees and retirees – three thousand twenty-four dollars (\$3,024)
38 and (ii) non-Medicare-eligible employees and retirees – three thousand nine hundred
39 seventy-four dollars (\$3,974).

40
41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux

43 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
44 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
45 **JUDICIAL RETIREMENT SYSTEM, THE LOCAL RETIREMENT**
46 **SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

47 **SECTION 29.25.(a)** G.S. 135-5 is amended by adding a new subsection to
48 read:

49 "(nnn) From and after July 1, 2005, the retirement allowance to or on account of
50 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
51 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
52 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or
53 on account of beneficiaries whose retirement commenced after July 1, 2004, but before

1 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the
2 allowance payable as determined by the Board of Trustees based upon the number of
3 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

4 **SECTION 29.25.(b)** G.S. 135-65 is amended by adding a new subsection to
5 read:

6 "(z) From and after July 1, 2005, the retirement allowance to or on account of
7 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
8 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and
9 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose
10 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased
11 by a prorated amount of two percent (2%) of the allowance payable as determined by
12 the Board of Trustees based upon the number of months that a retirement allowance was
13 paid between July 1, 2004, and June 30, 2005."

14 **SECTION 29.25.(c)** G.S. 120-4.22A is amended by adding a new subsection
15 to read:

16 "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,
17 the retirement allowance to or on account of beneficiaries whose retirement commenced
18 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance
19 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement
20 allowance to or on account of beneficiaries whose retirement commenced after January
21 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two
22 percent (2%) of the allowance payable as determined by the Board of Trustees based
23 upon the number of months that a retirement allowance was paid between January 1,
24 2005, and June 30, 2005."

25 **SECTION 29.25.(d)** G.S. 128-27 is amended by adding a new subsection to
26 read:

27 "(ggg) From and after July 1, 2005, the retirement allowance to or on account of
28 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
29 by two and one-half percent (2.5%) of the allowance payable on June 1, 2005, in
30 accordance with subsection (k) of this section. Furthermore, from and after July 1, 2005,
31 the retirement allowance to or on account of beneficiaries whose retirement commenced
32 after July 1, 2004, but before June 30, 2005, shall be increased by a prorated amount of
33 two and one-half percent (2.5%) of the allowance payable as determined by the Board
34 of Trustees based upon the number of months that a retirement allowance was paid
35 between July 1, 2004, and June 30, 2005."

36
37 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
38 Michaux, Williams

39 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
40 **AND RESCUE SQUAD WORKERS' PENSION FUND**

41 **SECTION 29.26.** G.S. 58-86-55 reads as rewritten:

42 **"§ 58-86-55. Monthly pensions upon retirement.**

43 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
44 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
45 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
46 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
47 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month. Any
48 retired fireman receiving a pension shall, effective ~~July 1, 2004,~~ July 1, 2005, receive a
49 pension of ~~one hundred sixty one dollars (\$161.00)~~ one hundred sixty-three dollars
50 (\$163.00) per month.

51 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
52 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
53 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a

1 pension hereunder until the member's official duties as a fireman or rescue squad
2 worker for which the member is paid compensation shall have been terminated and the
3 member shall have retired as such according to standards or rules fixed by the board of
4 trustees.

5 A member who is totally and permanently disabled while in the discharge of the
6 member's official duties as a result of bodily injuries sustained or as a result of extreme
7 exercise or extreme activity experienced in the course and scope of those official duties
8 and who leaves the fire or rescue squad service because of this disability shall be
9 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
10 ~~sixty-one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month
11 beginning the first month after the member's fifty-fifth birthday. All applications for
12 disability are subject to the approval of the board who may appoint physicians to
13 examine and evaluate the disabled member prior to approval of the application, and
14 annually thereafter. Any disabled member shall not be required to make the monthly
15 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

16 A member who is totally and permanently disabled for any cause, other than line of
17 duty, who leaves the fire or rescue squad service because of this disability and who has
18 at least 10 years of service with the pension fund, may be permitted to continue making
19 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
20 contributions for a total of 240 months. The member shall upon attaining the age of 55
21 years be entitled to receive a pension as provided by this section. All applications for
22 disability are subject to the approval of the board who may appoint physicians to
23 examine and evaluate the disabled member prior to approval of the application and
24 annually thereafter.

25 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
26 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
27 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
28 of the General Statutes, or whose volunteer department is taken over by a city or county,
29 and because of such annexation or takeover is unable to perform as a fireman or rescue
30 squad worker of any status, and if the member has at least 10 years of service with the
31 pension fund, may be permitted to continue making a monthly contribution of ten
32 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
33 months. The member upon attaining the age of 55 years and completion of such
34 contributions shall be entitled to receive a pension as provided by this section. Any
35 application to make monthly contributions under this section shall be subject to a
36 finding of eligibility by the Board of Trustees upon application of the member.

37 The pensions provided shall be in addition to all other pensions or benefits under any
38 other statutes of the State of North Carolina or the United States, notwithstanding any
39 exclusionary provisions of other pensions or retirement systems provided by law."

40
41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux, McLawhorn

43 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
44 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

45 **SECTION 29.27.** G.S. 127A-40(a) reads as rewritten:

46 "(a) Every member and former member of the North Carolina national guard who
47 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
48 pension of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) per month for 20 years'
49 creditable military service with an additional ~~five dollars (\$5.00)~~ seven dollars and fifty
50 cents (\$7.50) per month for each additional year of such service; provided, however,
51 that the total pension shall not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty
52 dollars (\$150.00) per month. The requirements for such pension are that each member
53 shall:

- 1 (1) Have served and qualified for at least 20 years' creditable military
 2 service, including national guard, reserve and active duty, under the
 3 same requirement specified for entitlement to retired pay for
 4 nonregular service under Chapter 67, Title 10, United States Code.
 5 (2) Have at least 15 years of the aforementioned service as a member of
 6 the North Carolina national guard.
 7 (3) Have received an honorable discharge from the North Carolina
 8 national guard."
 9

10 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 11 Michaux

12 **CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS**
 13 **GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

14 **SECTION 29.28.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
 15 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

16 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
 17 2006."

18 **SECTION 29.28.(b)** The introductory language of Section 67 of S.L.
 19 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

20 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005,~~ 2006,
 21 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

22 **SECTION 29.28.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
 23 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

24 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
 25 2006."

26 **SECTION 29.28.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
 27 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

28 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
 29 30, ~~2005-~~ 2006."

30 **SECTION 29.28.(e)** G.S. 135-3(8)c. reads as rewritten:

- 31 "c. Should a beneficiary who retired on an early or service
 32 retirement allowance under this Chapter be reemployed, or
 33 otherwise engaged to perform services, by an employer
 34 participating in the Retirement System on a part-time,
 35 temporary, interim, or on a fee-for-service basis, whether
 36 contractual or otherwise, and if such beneficiary earns an
 37 amount during the 12-month period immediately following the
 38 effective date of retirement or in any calendar year which
 39 exceeds fifty percent (50%) of the reported compensation,
 40 excluding terminal payments, during the 12 months of service
 41 preceding the effective date of retirement, or twenty thousand
 42 dollars (\$20,000), whichever is greater, as hereinafter indexed,
 43 then the retirement allowance shall be suspended as of the first
 44 day of the month following the month in which the
 45 reemployment earnings exceed the amount above, for the
 46 balance of the calendar year. The retirement allowance of the
 47 beneficiary shall be reinstated as of January 1 of each year
 48 following suspension. The amount that may be earned before
 49 suspension shall be increased on January 1 of each year by the
 50 ratio of the Consumer Price Index to the Index one year earlier,
 51 calculated to the nearest tenth of a percent (1/10 of 1%).

52 The computation of postretirement earnings of a beneficiary
 53 under this sub-subdivision, G.S. 135-3(8)c., who has been

1 retired at least six months and has not been employed in any
2 ~~capacity, except as a substitute teacher or a part time tutor,~~
3 capacity with a public school for at least six months
4 immediately preceding the effective date of reemployment,
5 shall not include earnings while the beneficiary is employed to
6 teach on a ~~substitute, interim, or permanent~~ permanent,
7 full-time basis in a public school. The Department of Public
8 Instruction shall certify to the Retirement System that a
9 beneficiary is employed to teach by a local school
10 administrative unit under the provisions of this sub-subdivision
11 and as a retired teacher as the term is defined under the
12 provisions of G.S. 115C-325(a)(5a).

13 Beneficiaries employed under this sub-subdivision are not
14 entitled to any benefits otherwise provided under this Chapter
15 as a result of this period of employment."

16 **SECTION 29.28.(f)** G.S. 115C-325(a)(5a) reads as rewritten:

17 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
18 Employees' Retirement System of North Carolina who has been retired
19 at least six months, has not been employed in any ~~capacity, other than~~
20 ~~as a substitute teacher or a part time tutor, with a local board of~~
21 ~~education or a charter school~~ capacity for at least six months,
22 immediately preceding the effective date of reemployment, is
23 determined by a local board of education or a charter school to have
24 had satisfactory performance during the last year of employment by a
25 local board of education or a charter school, and who is employed to
26 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other
27 than a charter school shall be treated the same as a probationary
28 teacher except that (i) a retired teacher is not eligible for career status
29 and (ii) the performance of a retired teacher who had attained career
30 status prior to retirement shall be evaluated in accordance with a local
31 board of education's policies and procedures applicable to career
32 teachers."

33 **SECTION 29.28.(g)** Notwithstanding any other provision of law, each local
34 school administrative unit shall pay to the Teachers' and State Employees' Retirement
35 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
36 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are
37 exempt from the earnings cap, are being paid. Each local school administrative unit
38 shall report monthly to the Retirement Systems Division on payments made pursuant to
39 this subsection.

40 Notwithstanding any other provision of law, any portion of the payment made
41 by a local school administrative unit to a reemployed teacher who is exempt from the
42 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that
43 exceeds the State-supported salary level for that position, shall be paid from local funds.

44 **SECTION 29.28.(h)** G.S. 135-1(20) reads as rewritten:

45 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the
46 ~~withdrawal- complete separation~~ complete separation from active service with no intent or
47 agreement, express or implied, to return to service. ~~a~~ A retirement
48 ~~allowance granted under the provisions of this Chapter.~~ Chapter may
49 only be granted upon retirement of a member. In order for a member's
50 retirement to become effective in any month, the member must render
51 no service ~~service, including part-time, temporary, substitute, or~~
52 contractor service, at any time during ~~that month.~~ the six months
53 immediately following the effective date of retirement."

1 **SECTION 29.28.(i)** Subsection (h) of this section becomes effective July 1,
2 2005, but does not apply to members who retired prior to July 1, 2005, and does not
3 apply to participants in The University of North Carolina Phased Retirement Program
4 until June 30, 2007. The remainder of this section becomes effective June 30, 2005.

5
6 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
7 Michaux

8 **INCREASE BENEFIT/SHERIFFS' SUPPLEMENTAL PENSION FUND**

9 **SECTION 29.30.(a)** G.S. 143-166.85(a) reads as rewritten:

10 "(a) An eligible retired sheriff shall be entitled to and receive an annual pension
11 benefit, payable in equal monthly installments, equal to one share for each full year of
12 eligible service as sheriff multiplied by his total number of years of eligible service. The
13 amount of each share shall be determined by dividing the total number of years of
14 eligible service for all eligible retired sheriffs on December 31 of each calendar year
15 into the amount to be disbursed as monthly pension payments in accordance with the
16 provisions of G.S., 143 166.83(b). In no event however shall a monthly pension under
17 this Article exceed an amount, which when added to a retired allowance at retirement
18 from the Local Governmental Employees' Retirement System or to the amount he
19 would have been eligible to receive if service had not been forfeited by the withdrawal
20 of accumulated contributions, is greater than seventy -five percent (75%) of a sheriff's
21 equivalent annual salary immediately preceding retirement computed on the latest
22 monthly base rate, to a maximum amount of ~~one thousand two hundred dollars (\$1,200).~~
23 one thousand five hundred dollars (\$1,500)."

24 **SECTION 29.30.(b)** G.S. 7A-304(a)(3a) reads as rewritten:

25 "(3a) For the supplemental pension benefits of sheriffs, the sum of
26 ~~seventy five cents (75¢)~~ one dollar twenty-five cents (\$1.25) to be
27 remitted to the Department of Justice and administered under the
28 provisions of Article 12G of Chapter 143 of the General Statutes."
29

30 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
31 Michaux

32 **LONGEVITY SERVICE DEFINITION FOR MEMBERS OF THE UTILITIES**
33 **COMMISSION/UTILITIES COMMISSION MEMBERS IN**
34 **CONSOLIDATED JUDICIAL RETIREMENT SYSTEM/TRANSFER OF**
35 **CONTRIBUTIONS TO CONSOLIDATED JUDICIAL RETIREMENT**
36 **SYSTEM/RETIREMENT ALLOWANCE LIMITATION FOR MEMBERS**
37 **OF THE LEGISLATIVE RETIREMENT SYSTEM**

38 **SECTION 29.30A.(a)** G.S. 62-10 reads as rewritten:

39 "(h) The salary of each commissioner and that of the commissioner designated as
40 chairman shall be set by the General Assembly in the Current Operations
41 Appropriations Act. In lieu of merit and other increment raises paid to regular State
42 employees, each commissioner, including the commissioner designated as chairman,
43 shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%)
44 of the annual salary set forth in the Current Operations Appropriations Act payable
45 monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years
46 of service. "Service" means service as a member of the Utilities ~~Commission.~~
47 Commission or as a member of the General Assembly."

48 **SECTION 29.30A.(b)** G.S. 135-50(b) reads as rewritten:

49 "(b) The purpose of this Article is to improve the administration of justice by
50 attracting and retaining the most highly qualified talent available within the State to the
51 positions of justice and judge, district attorney and solicitor, ~~and~~ clerk of superior court,
52 within the General Court of ~~Justice.~~ Justice, and to membership on the Utilities
53 Commission."

1 **SECTION 29.30A.(c)** G.S. 135-51 reads as rewritten:

2 "**§ 135-51. Scope.**

3 (a) This Article provides consolidated retirement benefits for all justices and
4 judges, district attorneys, and solicitors who are serving on January 1, 1974, and who
5 become such thereafter; and for all clerks of superior court who are so serving on
6 January 1, 1975, and who become such ~~thereafter~~ after that date; and for all members
7 of the Utilities Commission who are serving on September 1, 2005, and who become
8 members of the Utilities Commission after that date.

9 (b) For justices and judges of the appellate and superior court divisions of the
10 General Court of Justice who so served prior to January 1, 1974, the provisions of this
11 Article supplement and, under certain circumstances, replace the provisions of Articles
12 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

13 For district attorneys and judges of the district court of the General Court of Justice
14 who so served prior to January 1, 1974, the provisions of this Article supplement and,
15 under certain circumstances, replace the provisions of Article 1 of this Chapter.

16 For clerks of superior court of the General Court of Justice who so served prior to
17 January 1, 1975, the provisions of this Article supplement and, under certain
18 circumstances, replace the provisions of Article 1 of this Chapter.

19 (c) The retirement benefits of any person who becomes a justice or judge, district
20 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after
21 January 1, 1975, or a member of the Utilities Commission on or after September 1,
22 2005, shall be determined solely in accordance with the provisions of this Article."

23 **SECTION 29.30A.(d)** G.S. 135-53 reads as rewritten:

24 "**§ 135-53. Definitions.**

25 The following words and phrases as used in this Article, unless a different meaning
26 is plainly required by the context, shall have the following meanings:

- 27 (1) "Accumulated contributions" with respect to any member shall mean
28 the sum of all the amounts deducted from the compensation of the
29 member pursuant to G.S. 135-68 since he last became a member and
30 credited to his account in the annuity savings fund, plus any amount
31 standing to his credit pursuant to G.S. 135-67(c) as a result of a prior
32 period of membership, plus any amounts credited to his account
33 pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular
34 interest on all such amounts computed as provided in G.S. 135-7(b).
- 35 (2) "Actuarial equivalent" shall mean a benefit of equal value when
36 computed upon the bases of such mortality tables as shall be adopted
37 by the Board of Trustees, and regular interest.
- 38 (2a) "Average final compensation" shall mean the average annual
39 compensation of a member during the 48 consecutive calendar months
40 of membership service producing the highest such average.
- 41 (3) "Beneficiary" shall mean any person in receipt of a retirement
42 allowance or other benefit as provided in this Article.
- 43 (4) "Board of Trustees" shall mean the Board of Trustees established by
44 G.S. 135-6.
- 45 (4a) "Clerk of superior court" shall mean the clerk of superior court
46 provided for in G.S. 7A-100(a).
- 47 (5) "Compensation" shall mean all salaries and wages derived from public
48 funds which are earned by a member of the Retirement System for his
49 service as a justice or judge, or district attorney, or clerk of superior
50 ~~court~~ court, or as a member of the Utilities Commission.
- 51 (6) "Creditable service" shall mean for any member the total of his prior
52 service plus his membership service.

- 1 (6a) "District attorney" shall mean the district attorney or solicitor provided
2 for in G.S. 7A-60.
- 3 (7) "Filing" when used in reference to an application for retirement shall
4 mean the receipt of an acceptable application on a form provided by
5 the Retirement System.
- 6 (8) "Final compensation" shall mean for any member the annual
7 equivalent of the rate of compensation most recently applicable to him.
- 8 (9) "Judge" shall mean any justice or judge of the General Court of Justice
9 and the administrative officer of the courts.
- 10 (10) "Medical board" shall mean the board of physicians provided for in
11 G.S. 135-6.
- 12 (11) "Member" shall mean any person included in the membership of the
13 Retirement System as provided in this Article.
- 14 (12) "Membership service" shall mean service as a judge, district attorney,
15 ~~or clerk of superior court~~ court, or Utilities Commissioner, rendered
16 while a member of the Retirement System.
- 17 (13) "Previous system" shall mean, with respect to any member, the
18 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A
19 of the General Statutes, to the extent that such Article or Articles were
20 formerly applicable to the member, and in the case of ~~judges~~ a judge of
21 the district court division, ~~and~~ district attorney, and clerk of superior
22 court of the General Court of Justice, and in the case of a Utilities
23 Commissioner, the Teachers' and State Employees' Retirement
24 System.
- 25 (14) "Prior service" shall mean service rendered by a member, prior to his
26 membership in the Retirement System, for which credit is allowable
27 under G.S. 135-56.
- 28 (14a) "Utilities Commissioner" means a member of the North Carolina
29 Utilities Commission as provided for in G.S. 62-10.
- 30 (15) "Regular interest" shall mean interest compounded annually at such a
31 rate as shall be determined by the Board of Trustees in accordance
32 with G.S. 135-7(b).
- 33 (16) "Retirement" shall mean the withdrawal from active service with a
34 retirement allowance granted under the provisions of this Chapter. In
35 order for a member's retirement to become effective in any month, the
36 member must render no service at any time during that month.
- 37 (17) "Retirement allowance" shall mean the periodic payments to which a
38 beneficiary becomes entitled under the provisions of this Article.
- 39 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement
40 System" of North Carolina, as established in this Article.
- 41 (19) "Year" as used in this Article shall mean the regular fiscal year
42 beginning July 1 and ending June 30 in the following calendar year,
43 unless otherwise defined by regulation of the Board of Trustees."

44 **SECTION 29.30A.(e)** G.S. 135-54 reads as rewritten:

45 **"§ 135-54. Name and date of establishment.**

46 A Retirement System is hereby established and placed under the management of the
47 Board of Trustees for the purpose of providing retirement allowances and other benefits
48 under the provisions of this Article for justices and judges, district attorneys, and clerks
49 of superior court of the General Court of Justice of North Carolina, and Utilities
50 Commissioners and their survivors. The Retirement System so created shall be
51 established as of January 1, 1974.

1 The Retirement System shall have the power and privileges of a corporation and
2 shall be known as the "Consolidated Judicial Retirement System of North Carolina,"
3 and by such name all of its business shall be transacted."

4 **SECTION 29.30A.(f)** G.S. 135-55 reads as rewritten:

5 **"§ 135-55. Membership.**

6 (a) The membership of the Retirement System shall consist of:

- 7 (1) All judges and district attorneys in office on January 1, 1974;
8 (2) All persons who become judges and district attorneys or reenter
9 service as judges and district attorneys after January 1, 1974;
10 (3) All clerks of superior court in office on January 1, 1975; and
11 (4) All persons who become clerks of superior court or reenter service as
12 clerks of superior court after January 1, ~~1975-1975~~;
13 (5) All Utilities Commissioners in office on September 1, 2005; and
14 (6) All persons who become Utilities Commissioners or reenter service as
15 Utilities Commissioners after September 1, 2005.

16 (b) The membership of any person in the Retirement System shall cease upon:

- 17 (1) The withdrawal of his accumulated contributions after he is no longer
18 a judge, district ~~attorney~~ attorney, Utilities Commissioner, or clerk of
19 superior court, or
20 (2) His retirement under the provisions of the Retirement System, or
21 (3) His death."

22 **SECTION 29.30A.(g)** G.S. 135-58(a4) reads as rewritten:

23 "(a4) Any member who retires under the provisions of G.S. 135-57(a) or
24 G.S. 135-57(c) on or after January 1, 2004, but before September 1, 2005, after the
25 member has either attained the member's 65th birthday or has completed 24 years or
26 more of creditable service, shall receive an annual retirement allowance, payable
27 monthly, which shall commence on the effective date of the member's retirement and
28 shall be continued on the first day of each month thereafter during the member's
29 lifetime, the amount of which shall be computed as the sum of the amounts in
30 subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall
31 the annual allowance payable to any member be greater than an amount which, when
32 added to the allowance, if any, to which the member is entitled under the Teachers' and
33 State Employees' Retirement System, the Legislative Retirement System, or the Local
34 Governmental Employees' Retirement System (prior in any case to any reduction for
35 early retirement or for an optional mode of payment), would total three-fourths of the
36 member's final compensation:

- 37 (1) Four and two hundredths percent (4.02%) of the member's final
38 compensation, multiplied by the number of years of creditable service
39 rendered as a justice of the Supreme Court or judge of the Court of
40 Appeals;
41 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
42 compensation, multiplied by the number of years of creditable service
43 rendered as a judge of the superior court or as Administrative Officer
44 of the Courts;
45 (3) Three and two hundredths percent (3.02%) of the member's final
46 compensation, multiplied by the number of years of creditable service
47 rendered as a judge of the district court, district attorney, or clerk of
48 superior court;
49 (4) A service retirement allowance computed in accordance with the
50 service retirement provisions of Article 3 of Chapter 128 of the
51 General Statutes using an average final compensation as defined in
52 G.S. 135-53(2a) and creditable service equal to the number of years of
53 the member's creditable service that was transferred from the Local

1 Governmental Employees' Retirement System to this System as
2 provided in G.S. 135-56; and

- 3 (5) A service retirement allowance computed in accordance with the
4 service retirement provisions of Article 1 of this Chapter of the
5 General Statutes using an average final compensation as defined in
6 G.S. 135-53(2a) and creditable service, including any sick leave
7 standing to the credit of the member, equal to the number of years of
8 the member's creditable service that was transferred from the Teachers'
9 and State Employees' Retirement System or the Legislative Retirement
10 System to this System as provided in G.S. 135-56."

11 **SECTION 29.30A.(h)** G.S. 135-58 is amended by adding a new subsection

12 to read:

13 "(a5) Any member who retires under the provisions of G.S. 135-57(a) or
14 G.S. 135-57(c) on or after September 1, 2005, after the member has either attained the
15 member's 65th birthday or has completed 24 years or more of creditable service, shall
16 receive an annual retirement allowance, payable monthly, which shall commence on the
17 effective date of the member's retirement and shall be continued on the first day of each
18 month thereafter during the member's lifetime, the amount of which shall be computed
19 as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection,
20 provided that in no event shall the annual allowance payable to any member be greater
21 than an amount which, when added to the allowance, if any, to which the member is
22 entitled under the Teachers' and State Employees' Retirement System, the Legislative
23 Retirement System, or the Local Governmental Employees' Retirement System (prior in
24 any case to any reduction for early retirement or for an optional mode of payment),
25 would total three-fourths of the member's final compensation:

- 26 (1) Four and two hundredths percent (4.02%) of the member's final
27 compensation, multiplied by the number of years of creditable service
28 rendered as a justice of the Supreme Court or judge of the Court of
29 Appeals;
30 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
31 compensation, multiplied by the number of years of creditable service
32 rendered as a judge of the superior court, as Administrative Officer of
33 the Courts, or as a Utilities Commissioner;
34 (3) Three and two hundredths percent (3.02%) of the member's final
35 compensation, multiplied by the number of years of creditable service
36 rendered as a judge of the district court, district attorney, or clerk of
37 superior court;
38 (4) A service retirement allowance computed in accordance with the
39 service retirement provisions of Article 3 of Chapter 128 of the
40 General Statutes using an average final compensation as defined in
41 G.S. 135-53(2a) and creditable service equal to the number of years of
42 the member's creditable service that was transferred from the Local
43 Governmental Employees' Retirement System to this System as
44 provided in G.S. 135-56; and
45 (5) A service retirement allowance computed in accordance with the
46 service retirement provisions of Article 1 of this Chapter of the
47 General Statutes using an average final compensation as defined in
48 G.S. 135-53(2a) and creditable service, including any sick leave
49 standing to the credit of the member, equal to the number of years of
50 the member's creditable service that was transferred from the Teachers'
51 and State Employees' Retirement System or the Legislative Retirement
52 System to this System as provided in G.S. 135-56."

1 **SECTION 29.30A.(i)** G.S. 135-70.1 is amended by creating a new
2 subsection to read:

3 "(a1) The accumulated contributions, creditable service, and reserves, if any, of a
4 Utilities Commissioner, as defined in G.S. 135-53(14a), who is serving as a Utilities
5 Commissioner on September 1, 2005, shall be transferred from the Teachers' and State
6 Employees' Retirement System to the Consolidated Judicial Retirement System for the
7 service rendered as a Utilities Commissioner. The accumulated contributions credited in
8 the annuity savings fund in the Teachers' and State Employees' Retirement System for
9 service as a Utilities Commissioner shall be credited to the annuity savings fund in the
10 Consolidated Judicial Retirement System, and the member shall be credited with all
11 membership service as a Utility Commissioner in the Consolidated Judicial Retirement
12 System."

13 **SECTION 29.30A.(j)** G.S. 135-71 is amended by adding a new subsection
14 to read:

15 "(d) Notwithstanding the provisions of G.S. 135-70.1 to the contrary, a retired
16 former member and/or beneficiary of the Teachers' and State Employees' Retirement
17 System as defined in G.S. 135-1(6), whose retirement allowance from this System
18 and/or from the Teachers' and State Employees' Retirement System ceases upon a return
19 to membership service under this System, shall be permitted to transfer the accumulated
20 contributions, creditable service, and reserves, if any, from the Teachers' and State
21 Employees' Retirement System to this System on the same basis as provided for
22 members of other retirement systems under G.S. 135-70.1, if the member attains five or
23 more years of total membership service in this System, and completes at least three
24 years of membership service subsequent to the member's return to membership service."

25 **SECTION 29.30A.(k)** G.S. 120-4.21(c) reads as rewritten:

26 "(c) Limitations. – In no event shall any member receive a service retirement
27 allowance greater than seventy-five percent (75%) of his the member's "highest annual
28 salary". salary" nor shall a member receive any service retirement allowance whatsoever
29 while employed in a position that makes the member a contributing member of either
30 the Teachers' and State Employees' Retirement System or the Consolidated Judicial
31 Retirement System. If the member should become a member of either of these systems,
32 payment of the member's service retirement allowance shall be suspended until the
33 member withdraws from membership in that system."

34 **SECTION 29.30A.(l)** Subsection (k) of this section becomes effective
35 September 1, 2005, but applies only to members retiring on and after that date. The
36 remainder of this section becomes effective September 1, 2005.
37

38 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
39 Michaux, Wright

40 **STATE HEALTH PLAN CHANGES TO SCREENING MAMMOGRAM** 41 **COVERAGE**

42 **SECTION 29.31.(a)** G.S. 135-40.5(e) reads as rewritten:

43 "(e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent
44 (100%) of allowable charges for routine diagnostic examinations and tests, including
45 breast, colon, rectal, and prostate exams, X rays, ~~mammograms~~, blood and blood
46 pressure checks, urine tests, tuberculosis tests, and general health checkups that are
47 medically necessary for the maintenance and improvement of individual health but no
48 more often than once every three years for covered individuals to age 40 years, once
49 every two years for covered individuals to age 50 years, and once a year for covered
50 individuals age 50 years and older, unless a more frequent occurrence is warranted by a
51 medical condition when such charges are incurred in a medically supervised facility.
52 The Plan will pay one hundred percent (100%) of allowable charges for mammograms
53 once per year for covered individuals age 40 years and over, and not more often than

1 once every three years for covered individuals to age 40 years, when such charges are
2 incurred in a medically supervised facility. Routine diagnostic examinations and tests
3 covered under this subsection also include examinations and tests for the screening for
4 the early detection of cervical cancer. The coverage shall be in accordance with the
5 most recently published American Cancer Society guidelines or guidelines adopted by
6 the North Carolina Advisory Committee on Cancer Coordination and Control for any
7 covered female. For the purposes of this subsection, "examinations and laboratory tests
8 for the screening for the early detection of cervical cancer" means conventional PAP
9 smear screening, liquid-based cytology, and human papilloma virus (HPV) detection
10 methods for women with equivocal findings on cervical cytologic analysis that are
11 subject to the approval of and have been approved by the United States Food and Drug
12 Administration. Provided, however, that charges for such examinations and tests are not
13 covered by the Plan when they are incurred to obtain or continue employment, to secure
14 insurance coverage, to comply with legal proceedings, to attend schools or camps, to
15 meet travel requirements, to participate in athletic and related activities, or to comply
16 with governmental licensing requirements. The maximum amount payable under this
17 subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal
18 year."

19 **SECTION 29.31.(b)** G.S. 135-40.6(8)s. reads as rewritten:

20 "**§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
21 **benefits).**

22
23 (8) Other Covered Charges. –

24 s. Routine Diagnostic Examinations: Allowable charges for
25 routine diagnostic examinations and tests, including
26 examinations and tests for the screening for the early detection
27 of cervical cancer, breast, colon, rectal, and prostate exams, X
28 rays, ~~mammograms~~, blood and blood pressure checks, urine
29 tests, tuberculosis tests, and general health checkups that are
30 medically necessary for the maintenance and improvement of
31 individual health but no more often than once every three years
32 for covered individuals to age 40 years, once every two years
33 for covered individuals to age 50 years, and once a year for
34 covered individuals age 50 years and older and, for
35 examinations and tests for the screening for the early detection
36 of cervical cancer, in accordance with the most recently
37 published American Cancer Society guidelines or guidelines
38 adopted by the North Carolina Advisory Committee on Cancer
39 Coordination and Control, unless a more frequent occurrence is
40 warranted by a medical condition when such charges are
41 incurred in a medically supervised facility. The Plan will pay
42 one hundred percent (100%) of allowable charges for
43 mammograms once per year for covered individuals age 40
44 years and over, and not more often than once every three years
45 for covered individuals to age 40 years, when such charges are
46 incurred in a medically supervised facility. Provided, however,
47 that charges for such examinations and tests are not covered by
48 the Plan when they are incurred to obtain or continue
49 employment, to secure insurance coverage, to comply with
50 legal proceedings, to attend schools or camps, to meet travel
51 requirements, to participate in athletic and related activities or
52 to comply with governmental licensing requirements. For the
53 purposes of this sub-subdivision, "examinations and laboratory

tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

...."

PART XXX. CAPITAL APPROPRIATIONS.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux, Wright

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 30.1. The appropriations made by the 2005 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux, Wright

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.2. There is appropriated from the General Fund for the 2005-2006 fiscal year the following amount for capital improvements:

Capital Improvements – General Fund	2005-2006
Department of Cultural Resources Capitol Area Visitor's Center	\$ 250,000
Department of Commerce – State Ports Authority Ports of Wilmington and Morehead City for equipment, capital, and infrastructure	\$ 9,000,000
Department of Environment and Natural Resources Water Resources Development Projects	\$ 12,424,000
Department of Agriculture Agricultural Laboratory	\$ 10,000,000
University of North Carolina System – Board of Governors UNC-Wilmington – School of Nursing	\$ 2,650,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 34,324,000

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux, Wright

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 30.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

Name of Project	2005-2006
(1) Wilmington Harbor Deepening	\$1,300,000

1	(2)	Manteo (Shallowbag) Bay Channel Maintenance	50,000
2	(3)	Wilmington Harbor Maintenance Dredging	500,000
3	(4)	B. Everett Jordan Water Supply Storage	100,000
4	(5)	John H. Kerr Reservoir Operations Evaluation	600,000
5	(6)	Bogue Banks Shore Protection Study (Carteret County)	75,000
6	(7)	Surf City/North Topsail Beach Protection Study	250,000
7	(8)	West Onslow Beach (Topsail)	100,000
8	(9)	Wrightsville Beach Nourishment	580,000
9	(10)	Hurricane Stream Restoration – Western North Carolina	2,000,000
10	(11)	Ocracoke NCCAT Estuarine Shoreline Protection	1,500,000
11	(12)	Far Creek Maintenance Dredging	120,000
12	(13)	Walters Slough Maintenance Dredging	122,000
13	(14)	Hurricane Isabel Emergency Stream	
14		Cleanup – Northeastern North Carolina	1,370,000
15	(15)	State-Local Projects	2,000,000
16	(16)	Princeville Flood Control	250,000
17	(17)	Currituck Sound Water Management Study	300,000
18	(18)	Aquatic Weed Control, Lake Gaston and Statewide	375,000
19	(19)	Yadkin/Pee Dee Lakes Project	500,000
20	(20)	North Carolina Oyster Habitat Restoration	50,000
21	(21)	Emergency Flood Control Projects	187,000
22	(22)	Planning Assistance to Communities	95,000

TOTALS**\$12,424,000**

SECTION 30.3.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2005-2006 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2005-2006.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2006-2007 fiscal year.

SECTION 30.3.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux, Wright

3 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

4 **SECTION 30.4.** The appropriations made by the 2005 General Assembly
5 for capital improvements shall be disbursed for the purposes provided by this act.
6 Expenditure of funds shall not be made by any State department, institution, or agency
7 until an allotment has been approved by the Governor as Director of the Budget. The
8 allotment shall be approved only after full compliance with the Executive Budget Act,
9 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction
10 contracts for projects to be financed in whole or in part with self-liquidating
11 appropriations, the Director of the Budget shall approve the elements of the method of
12 financing of those projects including the source of funds, interest rate, and liquidation
13 period. Provided, however, that if the Director of the Budget approves the method of
14 financing a project, the Director shall report that action to the Joint Legislative
15 Commission on Governmental Operations at its next meeting.

16 Where direct capital improvement appropriations include the purpose of
17 furnishing fixed and movable equipment for any project, those funds for equipment
18 shall not be subject to transfer into construction accounts except as authorized by the
19 Director of the Budget. The expenditure of funds for fixed and movable equipment and
20 furnishings shall be reviewed and approved by the Director of the Budget prior to
21 commitment of funds.

22 Capital improvement projects authorized by the 2005 General Assembly shall
23 be completed, including fixed and movable equipment and furnishings, within the limits
24 of the amounts of the direct or self-liquidating appropriations provided, except as
25 otherwise provided in this act. Capital improvement projects authorized by the 2005
26 General Assembly for the design phase only shall be designed within the scope of the
27 project as defined by the approved cost estimate filed with the Director of the Budget,
28 including costs associated with site preparation, demolition, and movable and fixed
29 equipment.

30
31 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
32 Michaux, Wright

33 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

34 **SECTION 30.5.** When each capital improvement project appropriated by the
35 2005 General Assembly, other than those projects under the Board of Governors of The
36 University of North Carolina, is placed under a construction contract, direct
37 appropriations shall be encumbered to include all costs for construction, design,
38 investigation, administration, movable equipment, and a reasonable contingency.
39 Unencumbered direct appropriations remaining in the project budget shall be placed in a
40 project reserve fund credited to the Office of State Budget and Management. Funds in
41 the project reserve may be used for emergency repair and renovation projects at State
42 facilities with the approval of the Director of the Budget. The project reserve fund may
43 be used, at the discretion of the Director of the Budget, to allow for award of contracts
44 where bids exceed appropriated funds, if those projects supplemented were designed
45 within the scope intended by the applicable appropriation or any authorized change in it,
46 and if, in the opinion of the Director of the Budget, all means to award contracts within
47 the appropriation were reasonably attempted. At the discretion of the Director of the
48 Budget, any balances in the project reserve fund shall revert to the original source.

49
50 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
51 Michaux, Wright

52 **REPAIR AND RENOVATION RESERVE ALLOCATION**

1 **SECTION 30.6.** Of the funds in the Reserve for Repairs and Renovations
2 for the 2005-2006 fiscal year, forty-six percent (46%) shall be allocated to the Board of
3 Governors of The University of North Carolina for repairs and renovations pursuant to
4 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
5 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
6 approved by the Board of Governors of The University of North Carolina, and fifty-four
7 percent (54%) shall be allocated to the Office of State Budget and Management for
8 repairs and renovations pursuant to G.S. 143-15.3A.

9 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
10 for the repair and renovation of facilities not supported from the General Fund if the
11 Board determines that sufficient funds are not available from other sources and that
12 conditions warrant General Fund assistance. Any such finding shall be included in the
13 Board's submission to the Joint Legislative Commission on Governmental Operations
14 on the proposed allocation of funds.

15 The Board of Governors and the Office of State Budget and Management
16 shall consult with the Joint Legislative Commission on Governmental Operations prior
17 to the allocation or reallocation of these funds.

18
19 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
20 Michaux, Wright

21 **PROJECT COST INCREASE**

22 **SECTION 30.7.** Upon the request of the administration of a State agency,
23 department, or institution, the Director of the Budget may, when in the Director's
24 opinion it is in the best interest of the State to do so, increase the cost of a capital
25 improvement project. Provided, however, that if the Director of the Budget increases
26 the cost of a project, the Director shall report that action to the Joint Legislative
27 Commission on Governmental Operations at its next meeting. The increase may be
28 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
29 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
30 direct capital improvement appropriations to that department or institution.

31
32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
33 Michaux, Wright

34 **NEW PROJECT AUTHORIZATION**

35 **SECTION 30.8.** Upon the request of the administration of any State agency,
36 department, or institution, the Director of the Budget may authorize the construction of
37 a capital improvement project not specifically authorized by the General Assembly if
38 such project is to be funded by gifts, federal or private grants, special fund receipts,
39 excess patient receipts above those budgeted at the University of North Carolina
40 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
41 construction of a capital improvement project pursuant to this section, the Director shall
42 consult with the Joint Legislative Commission on Governmental Operations.

43
44 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
45 Michaux, Wright

46 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

47 **SECTION 30.9.** Funds that become available by gifts, excess patient
48 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
49 Hill, federal or private grants, receipts becoming a part of special funds by act of the
50 General Assembly, or any other funds available to a State department or institution may
51 be utilized for advance planning through the working drawing phase of capital
52 improvement projects, upon approval of the Director of the Budget.

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux, Wright

3 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

4 **SECTION 30.10.** Except as permitted in previous sections of this act, the
5 appropriations for capital improvements made by the 2005 General Assembly may be
6 expended only for specific projects set out by the 2005 General Assembly and for no
7 other purpose. Construction of all capital improvement projects enumerated by the
8 2005 General Assembly shall be commenced, or self-liquidating indebtedness with
9 respect to them shall be incurred, within 12 months following the first day of the fiscal
10 year in which the funds are available. If construction contracts on those projects have
11 not been awarded or self-liquidating indebtedness has not been incurred within that
12 period, the direct appropriation for those projects shall revert to the original source, and
13 the self-liquidating appropriation shall lapse; except that direct appropriations may be
14 placed in a reserve fund as authorized in this act. This deadline with respect to both
15 direct and self-liquidating appropriations may be extended with the approval of the
16 Director of the Budget up to an additional 12 months if circumstances and conditions
17 warrant such extension.

18
19 **PART XXXIV. TOBACCO TAX RATE CHANGES**

20
21 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

22 **TOBACCO TAX RATE CHANGES**

23 **SECTION 34.1.(a)** G.S. 105-113.5 reads as rewritten:

24 **"§ 105-113.5. Tax on cigarettes.**

25 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
26 cigarettes at the rate of ~~two and one-half mills~~ one and one-half cents (1.50¢) per
27 individual cigarette."

28 **SECTION 34.1.(b)** G.S. 105-113.35(a) reads as rewritten:

29 "(a) Tax. – An excise tax is levied on tobacco products other than cigarettes ~~at the~~
30 ~~rate of two percent (2%) of the cost price of the products as~~ specified in this section.
31 This tax does not apply to ~~the following:~~

32 ~~(1) A tobacco product sold outside the State.~~

33 ~~(2) A State, a tobacco product sold to the federal government.~~

34 ~~(3) A government, or a sample tobacco product distributed without charge. The~~
35 rate of tax is as follows:

36 (1) Two percent (2%) of the cost price of cigars.

37 (2) Six percent (6%) of the cost price of tobacco products other than
38 cigarettes and cigars."

39 **SECTION 34.1.(c)** This section becomes effective July 1, 2005.

40
41 **PART XXXVIII. CORPORATE, EXCISE, AND INSURANCE TAX CHANGES**

42
43 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

44 **EQUALIZE TAX ON ENTERTAINMENT**

45 **SECTION 38.3.(a)** G.S. 105-37.1 reads as rewritten:

46 **"§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other~~**
47 **entertainments. Privilege tax on entertainment.**

48 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is
49 engaged in any of the following:

50 (1) Giving, offering, or managing a dance or an athletic contest for which
51 an admission fee in excess of fifty cents (50¢) is charged.

1 (2) Giving, offering, or managing a form of amusement or entertainment
2 that is not taxed by another provision of this Article and for which an
3 admission fee is charged.

4 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog
5 show, that is not taxed by another provision of this Article.

6 (4) Operating a motion picture show for which an admission is charged.

7 (b) ~~Rate and Payment. – The rate of the privilege tax is three percent (3%) of~~
8 ~~combined general rate applies to the gross receipts from the activities described in~~
9 ~~subsection (a) of this section. The tax is due when a return is due. A return is due by the~~
10 ~~10th day after the end of each month and covers the gross receipts received during the~~
11 ~~previous month. The term 'combined general rate' has the same meaning as defined in~~
12 ~~G.S. 105-164.3.~~

13 (c) Advance Report. – A person who owns or controls a performance, show, or
14 exhibition subject to the tax imposed by this section and who plans to bring the
15 performance to this State from outside the State must file a statement with the Secretary
16 that lists the dates, times, and places of the performance, show, or exhibition. The
17 statement must be filed no less than five days before the first performance, show, or
18 exhibition in this State.

19 (d) Local Taxes. – Cities may levy a license tax on a person taxed under
20 subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five
21 dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision
22 (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for
23 each day or part of a day the performance, show, or exhibition is given at each location.

24 Counties may not levy a license tax on a person taxed under subdivision ~~(a)(1) or~~
25 ~~(a)(2)(a)(1), (a)(2), or (a)(4)~~ of this section. Counties may levy a license tax on a person
26 taxed under subdivision (a)(3) to the same extent as a city."

27 **SECTION 38.3.(b)** G.S. 105-38.1 is repealed.

28 **SECTION 38.3.(c)** Subdivisions (4a) and (4b) of G.S. 105-164.3 are
29 recodified as subdivisions (4b) and (4c) respectively.

30 **SECTION 38.3.(d)** G.S. 105-164.3 is amended by adding a new subdivision
31 to read:

32 "**§ 105-164.3. Definitions.**

33 The following definitions apply in this Article:

34 ...
35 **(4a)** Combined general rate. – The State's general rate of tax set in
36 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
37 taxes authorized by Subchapter VIII of this Chapter for every county
38 in this State."

39 **SECTION 38.3.(e)** This section does not affect the rights or liabilities of the
40 State, a taxpayer, or another person arising under a statute amended or repealed by this
41 act before the effective date of its amendment or repeal; nor does it affect the right to
42 any refund or credit of a tax that accrued under the amended or repealed statute before
43 the effective date of its amendment or repeal.

44 **SECTION 38.3.(f)** This section becomes effective September 1, 2005, and
45 applies to tickets sold on or after that date.

46
47 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright
48 **EQUALIZE GROSS PREMIUMS TAX**

49 **SECTION 38.4.(a)** G.S. 105-228.5(d)(6) is repealed.

50 **SECTION 38.4.(b)** G.S. 58-6-25(a) reads as rewritten:

51 "(a) Charge Levied. – There is levied on each insurance company an annual
52 charge for the purposes stated in subsection (d) of this section. The charge levied in this
53 section is in addition to all other fees and taxes. The percentage rate of the charge is

1 established pursuant to subsection (b) of this section. For each insurance company that
2 is not a health maintenance organization, the rate section and is applied to the
3 company's premium tax liability for the taxable year. For health maintenance
4 organizations, the rate is applied to a premium tax liability for the taxable year
5 calculated as if the corporation or organization were paying tax at the rate in
6 G.S. 105-228.5(d)(2). In determining an insurance company's premium tax liability for a
7 taxable year, the following shall be disregarded:

- 8 (1) Additional taxes imposed by G.S. 105-228.8.
- 9 (2) The additional local fire and lightning tax imposed by
10 G.S. 105-228.5(d)(4).
- 11 (3) Any tax credits for guaranty or solvency fund assessments under
12 G.S. 105-228.5A or G.S. 97-133(a).
- 13 (4) Any tax credits allowed under Chapter 105 of the General Statutes
14 other than tax payments made by or on behalf of the taxpayer."

15 **SECTION 38.4.(c)** Notwithstanding the provisions of G.S. 105-228.5(f), the
16 following provisions apply to health maintenance organizations for the 2006 and 2007
17 taxable years in lieu of the provisions of G.S. 105-228.5(f):

18 Health maintenance organizations that are subject to the tax imposed by
19 G.S. 105-228.5 and have an estimated premium tax liability for the taxable year, not
20 including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or
21 more for business done in North Carolina shall remit three estimated tax payments: the
22 first estimated payment is due on or before April 15 and must be equal to at least
23 forty-five percent (45%) of the taxpayer's estimated premium tax liability for the taxable
24 year; the second estimated payment is due on or before June 15 and must be equal to at
25 least forty-five percent (45%) of the taxpayer's estimated premium tax liability for the
26 taxable year; and the third payment is due on or before October 15 and must be equal to
27 at least ten percent (10%) of the taxpayer's estimated premium tax liability for the
28 taxable year. The taxpayer must remit the balance by the following March 15 in the
29 same manner provided in G.S. 105-228.5(e) for annual returns.

30 An underpayment of an estimated payment required by this subsection bears
31 interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest
32 as provided in G.S. 105-266(b) and, together with the interest, must be credited to the
33 taxpayer and applied against the taxes imposed upon the company under
34 G.S. 105-228.5.

35 The penalties provided in Article 9 of Chapter 105 of the General Statutes
36 apply to the estimated tax payments required by this subsection.

37 **SECTION 38.4.(d)** This section is effective for taxable years beginning on
38 or after January 1, 2006.

39 **PART XXXIX. TAX INCENTIVES**

40
41
42 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

43 **FILM INDUSTRY JOBS INCENTIVES**

44 **SECTION 39.1.(a)** Part 1 of Article 4 of Chapter 105 of the General Statutes
45 is amended by adding a new section to read:

46 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

47 (a) Definitions. – The following definitions apply in this section:

- 48 (1) Highly compensated individual. – An individual who receives
49 compensation in excess of one million dollars (\$1,000,000) with
50 respect to a single production.
- 51 (2) Qualifying expenses. – The sum of the total amount spent in this State
52 for the following by a production company in connection with a
53 production:

- 1 a. Goods and services purchased by the production company.
2 b. Compensation and wages paid by the production company,
3 other than amounts paid to a highly compensated individual, on
4 which the production company remitted withholding payments
5 to the Department of Revenue under Article 4A of this Chapter.

6 (3) Production company. – Defined in G.S. 105-164.3.

7 (b) Credit. – A taxpayer that is a production company and has qualifying
8 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a
9 production is allowed a credit against the taxes imposed by this Part equal to fifteen
10 percent (15%) of the production company's qualifying expenses that have been certified
11 as required in subsection (c) of this section. For the purposes of this section, in the case
12 of an episodic television series, an entire season of episodes is one production. The
13 credit is computed based on all of the taxpayer's qualifying expenses incurred with
14 respect to the production, not just the qualifying expenses incurred during the taxable
15 year.

16 (c) Certification. – In order to be eligible for a credit under this section, a
17 taxpayer must submit a detailed accounting of its qualifying expenses to the North
18 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
19 with the assistance of the regional film commission for the location of the production,
20 must make a written certification of the amount of the qualifying expenses.

21 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
22 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
23 section does not distribute the credit among any of its owners. The pass-through entity
24 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
25 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
26 the owners of the entity, the credit allowed under this section does not affect the entity's
27 payment of tax on behalf of its owners.

28 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
29 filed for the taxable year in which the production activities are completed. The return
30 must state the name of the production, a description of the production, and the
31 certification from the North Carolina Film Office of the qualifying expenses for which
32 the credit is claimed.

33 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
34 of tax imposed by this Part for the taxable year reduced by the sum of all credits
35 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
36 is governed by the provisions governing a refund of an overpayment by the taxpayer of
37 the tax imposed in this Part. In computing the amount of tax against which multiple
38 credits are allowed, nonrefundable credits are subtracted before refundable credits.

39 (g) Limitation. – No credit is allowed under this section for any production that
40 satisfies one of the following conditions:

- 41 (1) It is political advertising.
42 (2) It is a television production of a news program or sporting event.
43 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

44 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
45 and make available for inspection any information or records required by the Secretary
46 of Revenue or the regional film commissions. The taxpayer has the burden of proving
47 eligibility for a credit and the amount of the credit.

48 (i) Report. – The Department of Revenue must publish by May 1 of each year
49 the following information, itemized by taxpayer for the 12-month period ending the
50 preceding April 1:

- 51 (1) The location of sites used in a production for which a credit was
52 claimed.

1 (2) The qualifying expenses for which a credit was claimed, classified by
2 whether the expenses were for goods, services, or compensation paid
3 by the production company.

4 (3) The number of people employed in the State with respect to credits
5 claimed.

6 (4) The total cost to the General Fund of the credits claimed.

7 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
8 after January 1, 2010."

9 **SECTION 39.1.(b)** Part 2 of Article 4 of Chapter 105 of the General
10 Statutes is amended by adding a new section to read:

11 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

12 (a) Definitions. – The following definitions apply in this section:

13 (1) Highly compensated individual. – An individual who receives
14 compensation in excess of one million dollars (\$1,000,000) with
15 respect to a single production.

16 (2) Qualifying expenses. – The sum of the total amount spent in this State
17 for the following by a production company in connection with a
18 production:

19 a. Goods and services purchased by the production company.

20 b. Compensation and wages paid by the production company,
21 other than amounts paid to a highly compensated individual, on
22 which the production company remitted withholding payments
23 to the Department of Revenue under Article 4A of this Chapter.

24 (3) Production company. – Defined in G.S. 105-164.3.

25 (b) Credit. – A taxpayer that is a production company and has qualifying
26 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a
27 production is allowed a credit against the taxes imposed by this Part equal to fifteen
28 percent (15%) of the production company's qualifying expenses that have been certified
29 as required in subsection (c) of this section. For the purposes of this section, in the case
30 of an episodic television series, an entire season of episodes is one production. The
31 credit is computed based on all of the taxpayer's qualifying expenses incurred with
32 respect to the production, not just the qualifying expenses incurred during the taxable
33 year.

34 (c) Certification. – In order to be eligible for a credit under this section, a
35 taxpayer must submit a detailed accounting of its qualifying expenses to the North
36 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
37 with the assistance of the regional film commission for the location of the production,
38 must make a written certification of the amount of the qualifying expenses.

39 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
40 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
41 section does not distribute the credit among any of its owners. The pass-through entity
42 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
43 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
44 the owners of the entity, the credit allowed under this section does not affect the entity's
45 payment of tax on behalf of its owners.

46 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
47 filed for the taxable year in which the production activities are completed. The return
48 must state the name of the production, a description of the production, and the
49 certification from the North Carolina Film Office of the qualifying expenses for which
50 the credit is claimed.

51 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
52 of tax imposed by this Part for the taxable year reduced by the sum of all credits
53 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess

1 is governed by the provisions governing a refund of an overpayment by the taxpayer of
 2 the tax imposed in this Part. In computing the amount of tax against which multiple
 3 credits are allowed, nonrefundable credits are subtracted before refundable credits.

4 (g) Limitation. – No credit is allowed under this section for any production that
 5 satisfies one of the following conditions:

6 (1) It is political advertising.

7 (2) It is a television production of a news program or sporting event.

8 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

9 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
 10 and make available for inspection any information or records required by the Secretary
 11 of Revenue or the regional film commissions. The taxpayer has the burden of proving
 12 eligibility for a credit and the amount of the credit.

13 (i) Report. – The Department of Revenue must publish by May 1 of each year
 14 the following information, itemized by taxpayer for the 12-month period ending the
 15 preceding April 1:

16 (1) The location of sites used in a production for which a credit was
 17 claimed.

18 (2) The qualifying expenses for which a credit was claimed, classified by
 19 whether the expenses were for goods, services, or compensation paid
 20 by the production company.

21 (3) The number of people employed in the State with respect to credits
 22 claimed.

23 (4) The total cost to the General Fund of the credits claimed.

24 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
 25 after January 1, 2010."

26 **SECTION 39.1.(c)** G.S. 105-259(b), as amended by Section 30.1 of this act,
 27 is amended by adding a new subdivision to read:

28 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
 29 who has access to tax information in the course of service to or employment by the State
 30 may not disclose the information to any other person unless the disclosure is made for
 31 one of the following purposes:

32 ...
 33 (33) To exchange information concerning a tax credit claimed under
 34 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film
 35 Office of the Department of Commerce and with the regional film
 36 commissions."

37 **SECTION 39.1.(d)** G.S. 143B-434.4 is repealed.

38 **SECTION 39.1.(e)** This section is effective for taxable years beginning on
 39 or after January 1, 2005.

40
 41 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

42 **SMALL BUSINESS HEALTH INSURANCE TAX CREDIT**

43 **SECTION 39.2.(a)** Article 3B of Chapter 105 of the General Statutes is
 44 amended by adding a new section to read:

45 **"§ 105-129.16E. Credit for small business employee health benefits.**

46 (a) Credit. – A small business that provides health benefits for all of its eligible
 47 employees during the taxable year is allowed a credit to offset its costs in providing
 48 health benefits for its eligible employees. For the purposes of this subsection, a taxpayer
 49 provides health benefits if it pays at least fifty percent (50%) of the premiums for health
 50 care coverage that equals or exceeds the minimum provisions of the basic health care
 51 plan of coverage recommended by the Small Employer Carrier Committee pursuant to
 52 G.S. 58-50-125.

1 The credit is equal to a dollar amount per eligible employee, not to exceed the
2 taxpayer's costs of providing health benefits for its eligible employees during the
3 taxable year. For each eligible employee for whom the taxpayer provides health
4 benefits, the amount is four hundred dollars (\$400.00).

5 (b) Allocation. – If the taxpayer is an individual who is a nonresident or a
6 part-year resident, the taxpayer must reduce the amount of the credit by multiplying it
7 by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer
8 is not an individual and is required to apportion its multistate business income to this
9 State, the taxpayer must reduce the amount of the credit by multiplying it by the
10 apportionment fraction used to apportion its business income to this State.

11 (c) Definitions. – The following definitions apply in this section:

12 (1) Eligible employee. – Defined in G.S. 58-50-110.

13 (2) Small business. – A taxpayer that employs no more than 25 eligible
14 employees throughout the taxable year.

15 (d) No Double Benefit. – A taxpayer may not claim a credit under this section for
16 costs for which it claimed a deduction under the Code. A taxpayer that claims a credit
17 provided under this section must adjust taxable income as provided in
18 G.S. 105-130.5(a)(16) or G.S. 105-134.6(c)(9), as applicable.

19 (e) Sunset. – This section expires for taxable years beginning on or after January
20 1, 2010."

21 **SECTION 39.2.(b)** G.S. 105-129.15A is repealed.

22 **SECTION 39.2.(c)** G.S. 105-129.16 is repealed.

23 **SECTION 39.2.(d)** G.S. 105-129.16A is amended by adding a new
24 subsection to read:

25 "(e) Sunset. – This section is repealed for renewable energy property placed in
26 service on or after January 1, 2006."

27 **SECTION 39.2.(e)** G.S. 105-129.16C is amended by adding a new
28 subsection to read:

29 "(d) Sunset. – This section is repealed for taxable years beginning on or after
30 January 1, 2006."

31 **SECTION 39.2.(f)** G.S. 105-130.5(a) is amended by adding a new
32 subdivision to read:

33 "(a) The following additions to federal taxable income shall be made in
34 determining State net income:

35 ...
36 (16) To the extent not included in federal taxable income, the costs of
37 providing employee health benefits for which the taxpayer claims a
38 credit under G.S. 105-129.16E."

39 **SECTION 39.2.(g)** G.S. 105-134.6(c) is amended by adding a new
40 subdivision to read:

41 "(c) Additions. – The following additions to taxable income shall be made in
42 calculating North Carolina taxable income, to the extent each item is not included in
43 taxable income:

44 ...
45 (9) The costs of providing employee health benefits for which the
46 taxpayer claims a credit under G.S. 105-129.16E."

47 **SECTION 39.2.(h)** Subsections (a), (f), and (g) of this section are effective
48 for taxable years beginning on or after January 1, 2006. The remainder of this section is
49 effective when it becomes law.

50
51 **PART XL. SET RATES FOR INSURANCE REGULATORY CHARGE AND**
52 **PUBLIC UTILITIES FEES**
53

1 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

2 **INSURANCE REGULATORY CHARGE**

3 **SECTION 40.1.(a)** The percentage rate to be used in calculating the
4 insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for
5 the 2005 calendar year.

6 **SECTION 40.1.(b)** This section is effective when it becomes law.

7
8 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

9 **REGULATORY FEE FOR UTILITIES COMMISSION**

10 **SECTION 40.2.(a)** The percentage rate to be used in calculating the public
11 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent
12 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during
13 each quarter that begins on or after July 1, 2005.

14 **SECTION 40.2.(b)** The electric membership corporation regulatory fee
15 imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand
16 dollars (\$200,000).

17 **SECTION 40.2.(c)** This section becomes effective July 1, 2005.

18
19 **PART XLI. HEALTH AND HUMAN SERVICES FEES**

20
21 Requested by: Representatives Barnhart, Insko

22 **NEWBORN SCREENING FEE**

23 **SECTION 41.1.** G.S. 130A-125(c) reads as rewritten:

24 "~~(c) The Department may impose a fee for a laboratory test performed pursuant to~~
25 ~~this section by the State Public Health Laboratory. A fee for a test must be based on the~~
26 ~~actual cost of performing the test. A fee of fourteen dollars (\$14.00) applies to a~~
27 laboratory test performed by the State Public Health Laboratory performed pursuant to
28 this section. Fees collected shall remain in the Department to be used to offset the cost
29 of the Newborn Screening Program."
30

31 Requested by: Representatives Insko, Barnhart

32 **DIVISION OF FACILITY SERVICES FEES**

33 **SECTION 41.2.(a)** G.S. 131D-2(b)(1) reads as rewritten:

34 "(b) Licensure; inspections. –

35 (1) The Department of Health and Human Services shall inspect and
36 license, under rules adopted by the Medical Care Commission, all
37 adult care homes for persons who are aged or mentally or physically
38 disabled except those exempt in subsection (c) of this section. Licenses
39 issued under the authority of this section shall be valid for one year
40 from the date of issuance unless revoked earlier by the Secretary for
41 failure to comply with any part of this section or any rules adopted
42 hereunder. Licenses shall be renewed annually upon filing and the
43 Department's approval of the renewal application. The Department
44 shall charge each adult care home with six or fewer beds a
45 nonrefundable annual license fee in the amount of ~~one hundred~~
46 ~~twenty five dollars (\$125.00).~~ two hundred fifty dollars (\$250.00). The
47 Department shall charge each adult care home with more than six beds
48 a nonrefundable annual license fee in the amount of ~~one hundred~~
49 ~~seventy five dollars (\$175.00)~~ three hundred fifty dollars (\$350.00)
50 plus a nonrefundable annual per-bed fee of ~~six dollars and twenty five~~
51 ~~cents (\$6.25).~~ twelve dollars and fifty cents (\$12.50). A license shall
52 not be renewed if outstanding fees, fines, and penalties imposed by the
53 State against the home have not been paid. Fines and penalties for

1 which an appeal is pending are exempt from consideration. The
2 renewal application shall contain all necessary and reasonable
3 information that the Department may by rule require. Except as
4 otherwise provided in this subdivision, the Department may amend a
5 license by reducing it from a full license to a provisional license for a
6 period of not more than 90 days whenever the Department finds that:

- 7 a. The licensee has substantially failed to comply with the
8 provisions of Articles 1 and 3 of Chapter 131D of the General
9 Statutes and the rules adopted pursuant to these Articles;
10 b. There is a reasonable probability that the licensee can remedy
11 the licensure deficiencies within a reasonable length of time;
12 and
13 c. There is a reasonable probability that the licensee will be able
14 thereafter to remain in compliance with the licensure rules for
15 the foreseeable future.

16 The Department may extend a provisional license for not more than
17 one additional 90-day period upon finding that the licensee has made
18 substantial progress toward remedying the licensure deficiencies that
19 caused the license to be reduced to provisional status.

20 The Department may revoke a license whenever:

- 21 a. The Department finds that:
22 1. The licensee has substantially failed to comply with the
23 provisions of Articles 1 and 3 of Chapter 131D of the
24 General Statutes and the rules adopted pursuant to these
25 Articles; and
26 2. It is not reasonably probable that the licensee can remedy
27 the licensure deficiencies within a reasonable length of
28 time; or
29 b. The Department finds that:
30 1. The licensee has substantially failed to comply with the
31 provisions of Articles 1 and 3 of Chapter 131D of the
32 General Statutes and the rules adopted pursuant to these
33 Articles; and
34 2. Although the licensee may be able to remedy the
35 deficiencies within a reasonable time, it is not reasonably
36 probable that the licensee will be able to remain in
37 compliance with licensure rules for the foreseeable
38 future; or
39 c. The Department finds that the licensee has failed to comply
40 with the provisions of Articles 1 and 3 of Chapter 131D of the
41 General Statutes and the rules adopted pursuant to these
42 Articles, and the failure to comply endangered the health,
43 safety, or welfare of the patients in the facility.

44 The Department may also issue a provisional license to a facility, pursuant to rules
45 adopted by the Medical Care Commission, for substantial failure to comply with the
46 provisions of this section or rules adopted pursuant to this section. Any facility wishing
47 to contest the issuance of a provisional license shall be entitled to an administrative
48 hearing as provided in the Administrative Procedure Act, Chapter 150B of the General
49 Statutes. A petition for a contested case shall be filed within 30 days after the
50 Department mails written notice of the issuance of the provisional license."

51 **SECTION 41.2.(b)** G.S. 131E-77(d) reads as rewritten:

52 "(d) Upon receipt of an application for a license, the Department shall issue a
53 license if it finds that the applicant complies with the provisions of this Article and the

1 rules of the Commission. The Department shall renew each license in accordance with
 2 the rules of the Commission. The Department shall charge the applicant a
 3 nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as
 4 follows:

5 Facility Type	6 Number of Beds	7 Base Fee	8 Per-Bed Fee
9 General Acute Hospitals:	10 1-49 beds	11 \$125.00 <u>250.00</u>	12 \$6.25 <u>12.50</u>
	13 50-99 beds	14 \$175.00 <u>350.00</u>	15 \$6.25 <u>12.50</u>
	16 100-199 beds	17 \$225.00 <u>450.00</u>	18 \$6.25 <u>12.50</u>
	19 200-399 beds	20 \$275.00 <u>550.00</u>	21 \$6.25 <u>12.50</u>
	22 400-699 beds	23 \$375.00 <u>750.00</u>	24 \$6.25 <u>12.50</u>
	25 700+ beds	26 \$475.00 <u>950.00</u>	27 \$6.25 <u>12.50</u>
28 Other Hospitals:		29 \$250.00 <u>500.00</u>	30 \$6.25 <u>12.50</u> "

31 **SECTION 41.2(c)** G.S. 131E-102(b) reads as rewritten:

32 "(b) Applications shall be available from the Department, and each application
 33 filed with the Department shall contain all necessary and reasonable information that the
 34 Department may by rule require. A license shall be granted to the applicant upon a
 35 determination by the Department that the applicant has complied with the provisions of
 36 this Part and the rules promulgated under this Part. The Department shall charge the
 37 applicant a nonrefundable annual license fee in the amount of ~~two hundred twenty five~~
 38 ~~dollars (\$225.00)~~ four hundred fifty dollars (\$450.00) plus a nonrefundable annual
 39 per-bed fee of ~~six dollars and twenty five cents (\$6.25)~~ twelve dollars and fifty cents
 40 (\$12.50)."

41 **SECTION 41.2(d)** G.S. 131E-138(c) reads as rewritten:

42 "(c) An application for a license shall be available from the Department, and each
 43 application filed with the Department shall contain all information requested by the
 44 Department. A license shall be granted to the applicant upon a determination by the
 45 Department that the applicant has complied with the provisions of this Part and the rules
 46 promulgated by the Commission under this Part. The Department shall charge the
 47 applicant a nonrefundable annual license fee in the amount of ~~one hundred seventy five~~
 48 ~~dollars (\$175.00)~~ three hundred fifty dollars (\$350.00)."

49 **SECTION 41.2(e)** G.S. 131E-147(b) reads as rewritten:

50 "(b) Applications shall be available from the Department, and each application
 51 filed with the Department shall contain all necessary and reasonable information that the
 52 Department may by rule require. A license shall be granted to the applicant upon a
 53 determination by the Department that the applicant has complied with the provisions of
 54 this Part and the rules promulgated by the Commission under this Part. The Department
 55 shall charge the applicant a nonrefundable annual base license fee in the amount of ~~three~~
 56 ~~hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00) plus a nonrefundable
 57 annual per-operating room fee in the amount of ~~twenty five dollars (\$25.00)~~ fifty dollars
 58 (\$50.00)."

59 **SECTION 41.2(f)** G.S. 131E-167(a) reads as rewritten:

60 "(a) Applications for certification shall be available from the Department, and
 61 each application filed with the Department shall contain all necessary and reasonable
 62 information that the Department may by rule require. A certificate shall be granted to
 63 the applicant for a period not to exceed one year upon a determination by the
 64 Department that the applicant has substantially complied with the provisions of this
 65 Article and the rules promulgated by the Department under this Article. The Department

1 shall charge the applicant a nonrefundable annual certification fee in the amount of ~~one~~
 2 ~~hundred twenty five dollars (\$125.00)~~ two hundred fifty dollars (\$250.00)."

3 **SECTION 41.2(g)** G.S. 131E-269 reads as rewritten:

4 "**§ 131E-269. Authorization to charge fee for certification of facilities suitable to**
 5 **perform abortions.**

6 The Department of Health and Human Services shall charge each hospital or clinic
 7 certified by the Department as a facility suitable for the performance of abortions, as
 8 authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of
 9 ~~three hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00)."

10 **SECTION 41.2(h)** G.S. 122C-23(h) reads as rewritten:

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

14 Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
15 Facilities (non-ICF/MR):	6 or fewer beds	\$125.00 <u>\$250.00</u>	\$0
	More than 6 beds	\$175.00 <u>\$350.00</u>	\$6.25 <u>\$12.50</u>
17 ICF/MR Only:	6 or fewer beds	\$325.00 <u>\$650.00</u>	\$0
	More than 6 beds	\$325.00 <u>\$650.00</u>	\$6.25 <u>\$12.50</u> "

19 **SECTION 41.2(i)** G.S. 131E-138.1 reads as rewritten:

20 "**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in**
 21 **continuing care retirement communities.**

22 The Department shall charge continuing care retirement communities licensed under
 23 Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult
 24 care home beds licensed by the Department a nonrefundable annual base license fee in
 25 the amount of ~~two hundred twenty five dollars (\$225.00)~~ four hundred fifty dollars
 26 (\$450.00) plus a nonrefundable annual per-bed fee in the amount of ~~six dollars and~~
 27 ~~twenty five cents (\$6.25)~~ twelve dollars and fifty cents (\$12.50)."

28 **SECTION 41.2(j)** G.S. 131E-267 reads as rewritten:

29 "**§ 131E-267. Fees for departmental review of health care facility construction**
 30 **projects.**

31 The Department of Health and Human Services shall charge a fee for the review of
 32 each health care facility construction project to ensure that project plans and
 33 construction are in compliance with State law. The fee shall be charged on a one-time,
 34 per-project basis, as follows, and shall not exceed twelve thousand five hundred dollars
 35 (\$12,500) for any single project:

37 Institutional Project	Project Fee
38 Hospitals	\$150.00 plus \$0.10/square foot of project space \$300.00 plus \$0.20/square foot of project space
39 Nursing Homes	\$125.00 plus \$0.08/square foot of project space \$250.00 plus \$0.16/square foot of project space
40 Ambulatory Surgical Facility	\$100.00 plus \$0.08/square foot of project space \$200.00 plus \$0.16/square foot of project space
41 Psychiatric Hospital	\$100.00 plus \$0.08/square foot of project space \$200.00 plus \$0.16/square foot of project space
42 Adult Care Home more than 7 beds	\$87.00 plus \$0.05/square foot of project space
43 <u>7 or more beds</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>
44 Residential Project	Project Fee
45 Family Care Homes	\$87.00 <u>175.00</u> flat fee
46 ICF/MR Group Homes	\$137.00 <u>275.00</u> flat fee
47 Group Homes: 1-3 beds	\$50.00 <u>100.00</u> flat fee
48 Group Homes: 4-6 beds	\$87.00 <u>175.00</u> flat fee

1 Group Homes: 7-9 beds \$~~112.00~~225.00 flat fee
 2 Other residential: More than 9 beds \$~~112.00~~225.00 plus \$~~0.038~~0.075/square foot of
 3 project space."

4 SECTION 41.2.(k) This section becomes effective October 1, 2005.

5
 6 **PART XLII. NATURAL AND ECONOMIC RESOURCES FEES**

7
 8 Requested by: Representatives Hunter, Warren
 9 **INCREASE VARIOUS AGRICULTURAL FEES**

10 SECTION 42.1.(a) G.S. 106-284.34(c) reads as rewritten:

11 "(c) No person shall distribute in this State a commercial feed, except a
 12 customer-formula feed, which has not been registered pursuant to the provisions of this
 13 section. The application for registration shall be submitted in the manner prescribed by
 14 the Commissioner. Upon approval by the Commissioner or his duly designated agent
 15 the registration shall be issued to the applicant. All registrations expire on the thirty-first
 16 day of December of each year. An annual registration fee of ~~three dollars (\$3.00)~~ up to
 17 five dollars (\$5.00) for each commercial feed other than canned pet food shall
 18 accompany each request for registration. An annual registration fee of ~~ten dollars~~
 19 ~~(\$10.00)~~ up to twelve dollars (\$12.00) for each canned pet food shall accompany each
 20 request for registration."

21 SECTION 42.1.(b) G.S. 106-284.40(b)(4) reads as rewritten:

22 "(4) In the case of a commercial feed other than canned pet food which is
 23 distributed in the State only in packages of five pounds or less, an
 24 annual registration fee of ~~thirty dollars (\$30.00)~~ up to forty dollars
 25 (\$40.00) shall be paid in lieu of the inspection fee specified above."

26 SECTION 42.1.(c) G.S. 106-277.28(3) reads as rewritten:

27 "(3) Each seed dealer or grower who has seed, whether originated or
 28 labeled by the dealer or grower, that is offered for sale in this State
 29 shall report the quantity of seed offered for sale and pay an inspection
 30 fee of ~~two cents (2¢)~~ up to four cents (4¢) for each container of seeds
 31 weighing 10 pounds or more. Seed shall be subject to the inspection
 32 fee and reporting requirements only once in any 12-month period. This
 33 fee does not apply to seed grown by a farmer and offered for sale by
 34 the farmer at the farm where the seed was grown."

35 SECTION 42.1.(d) The Board of Agriculture shall charge no more than the
 36 following fees for agronomic services:

<u>Test/Service</u>	<u>Fee</u>
37 (1) Routine nematode samples	\$ 3.00
38 (2) Routine waste samples	\$ 5.00
39 (3) Research soil and nematode samples	\$12.00
40 (4) Research plant, waste, and solution samples	\$12.00
41 (5) Nonresident nematode samples	\$14.00
42 (6) Nonresident plant, waste, and solution samples	\$26.00
43 (7) Special services for plant, waste, and solution samples:	
44 a. Heavy metals-soils	\$25.00
45 b. Nitrates-soils	\$ 5.00
46 c. Waste-heavy metals	\$10.00
47 d. Waste-N breakout	\$10.00
48 e. Waste-liming equivalent	\$10.00
49 f. Plant-chloride	\$ 5.00
50 g. Plant-molybdenum	\$ 5.00
51 h. Plant-petiole nitrates	\$ 5.00.

1 **SECTION 42.1.(e)** The Board of Agriculture shall charge no more than the
 2 following fees for animal disease diagnostic tests and services:

<u>Test/Service</u>	<u>Fee</u>
3 (1) Histopath	\$30.00
4 (2) Professional services-EIA	\$ 6.00
5 (3) Professional services-blood pour-off fees	\$ 1.00
6 (4) Vacuum tube handling fee	\$ 0.04.

7 **SECTION 42.1.(f)** G.S. 81A-52 reads as rewritten:
 8 **"§ 81A-52. License.**

9 All public weighmasters shall be licensed. Any person not less than 18 years of age
 10 who wishes to be a public weighmaster shall apply to the Department on a form
 11 provided by the Department. The Board may adopt rules for determining the
 12 qualifications of the applicant for a license. Public weighmasters shall be licensed for a
 13 period of one year beginning the first day of July and ending on the thirtieth day of
 14 June, and a fee of ~~twelve dollars (\$12.00)~~ up to nineteen dollars (\$19.00) shall be paid
 15 for each person licensed at the time of the filing of the application."
 16

17 **SECTION 42.1.(g)** G.S. 81A-72 reads as rewritten:
 18 **"§ 81A-72. Registration; certificate of registration; annual renewal.**

19 The Commissioner or his authorized agent shall register any person who has
 20 complied with the requirements of this Article by making a record of receipt of
 21 application, and the issuing of a certificate or card of registration to applicant,
 22 whereupon the applicant becomes a registered scale technician and shall be known
 23 thereafter as such. Such registration shall be in effect from date of registration until July
 24 1 next and shall be renewed on the first day of July of each year thereafter. A fee of up
 25 to twenty dollars (\$20.00) shall accompany each application for registration and each
 26 annual registration renewal."

27 **SECTION 42.1.(h)** G.S. 81A-11 is repealed.

28 **SECTION 42.1.(i)** Chapter 81A of the General Statutes is amended by
 29 adding the following new section to read:

30 **"§ 81A-12. Fee schedule.**

31 (a) The following maximum fees apply to all weights that are tested and certified
 32 to meet tolerances less stringent than the American Society for Testing and Materials
 33 (ASTM) Standard E617 Class 4. This includes the National Institutes of Standards and
 34 Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the
 35 applicable tolerance, adjustment may be required at an additional fee equal to the
 36 normal fee. No extra fee shall be charged for the normal adjustment of a weight cart.
 37 Even if weights are rejected or condemned, fees shall be assessed for the test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Maximum Fee/Unit</u>
38 0-10 lb	\$ 5.00	39 0-5 kg	\$ 5.00
40 11-100 lb	\$ 10.00	40 6-50 kg	\$ 10.00
41 101-1000 lb	\$ 20.00	41 51-500 kg	\$ 20.00
42 1001-2500 lb	\$ 30.00	42 501-1000 kg	\$ 30.00
43 2501-6000 lb	\$ 50.00	43 1001-2500 kg	\$ 50.00
44 Weight Carts	\$125.00		

45 up to 6000 lb (includes adjustment)
 46 (b) The following maximum fees apply to all weights that are tested and certified
 47 to meet ASTM Standard E617 Class 4 or the International Organization of Legal
 48 Metrology (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths
 49 of the applicable tolerance, adjustment may be required at an additional fee equal to the
 50 normal fee. Even if weights are rejected or condemned, fees shall be assessed for the
 51 test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Maximum Fee/Unit</u>
52 0-10 lb	\$ 10.00	53 0-5 kg	\$ 10.00

1	<u>11-100 lb</u>	<u>\$ 20.00</u>	<u>6-50 kg</u>	<u>\$ 20.00</u>
2	<u>101-1000 lb</u>	<u>\$ 40.00</u>	<u>51-500 kg</u>	<u>\$ 40.00</u>
3	<u>1001-2500 lb</u>	<u>\$ 60.00</u>	<u>501-1000 kg</u>	<u>\$ 60.00</u>
4	<u>2501-6000 lb</u>	<u>\$100.00</u>	<u>1001-2500 kg</u>	<u>\$100.00</u>

5 (c) The following maximum fees apply to all weights that are calibrated.
 6 Calibration means determining actual mass and conventional mass values with an
 7 assigned uncertainty specific to the test. If necessary and considered feasible by the
 8 metrologist, adjustments to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or
 9 F2 tolerances may be made for an additional fee of two times the normal fee.
 10 Adjustments to weights of this group shall require a minimum of 10 days for weights to
 11 return to environmental equilibrium before a final calibration value can be assigned.
 12 Even if weights are rejected or condemned, fees shall be assessed for the test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Maximum Fee/Unit</u>
13	<u>0-20 lb</u>	<u>0-10 kg</u>	<u>\$ 20.00</u>
14	<u>21-50 lb</u>	<u>11-30 kg</u>	<u>\$ 40.00</u>
15	<u>51-1000 lb</u>	<u>31-500 kg</u>	<u>\$ 70.00</u>
16	<u>1001-2500 lb</u>	<u>501-1000 kg</u>	<u>\$130.00</u>
17	<u>2501-6000 lb</u>	<u>1001-2500 kg</u>	<u>\$200.00</u>

19 (d) The following maximum fees apply to all weights that are calibrated using
 20 NIST weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5
 21 series or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The
 22 best uncertainty possible from the North Carolina Standards Laboratory shall be
 23 assigned to the mass values of the weights. If necessary and considered feasible by the
 24 metrologist, adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2,
 25 F1, or F2 tolerances may be made for an additional fee of two times the normal fee.
 26 Adjustments to weights of this group shall require a minimum of 10 days for weights to
 27 return to environmental equilibrium before a final calibration value can be assigned.

<u>Weight Range</u>	<u>Maximum Fee/Unit or Series</u>
28	<u>0-1 kg</u>
29	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
30	<u>2-30 kg</u>
31	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>
32	<u>0-2 lb</u>
33	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
34	<u>3-50 lb</u>
35	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>

33 (e) The following maximum fees apply to volumetric standard calibration.

34 Provers or Test Measures Tested By The Volume Transfer Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
35	<u>0-5 gal</u>	<u>0-20 liters</u>	<u>Up to \$30.00</u>
36	<u>Over 5 gal</u>	<u>Over 20 liters</u>	<u>Add up to \$0.10 per each</u>
37			<u>additional gallon</u>
38			<u>additional liter</u>

39 Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures

40 Tested By the Gravimetric Calibration Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
41	<u>0-100 gal set-up fee</u>	<u>0-500 liters set-up fee</u>	<u>Up to \$50.00</u>
42	<u>Calibration Fee</u>	<u>Calibration Fee</u>	<u>Add up to \$0.50</u>
43			<u>per gallon</u>
44			<u>per liter</u>

45 Small Volume Provers (SVPs) Tested By The Gravimetric Calibration Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
46	<u>0-100 gal set-up fee</u>	<u>0-500 liters set-up fee</u>	<u>Up to \$100.00</u>
47	<u>Calibration Fee</u>	<u>Calibration Fee</u>	<u>Add up to \$0.50</u>
48			<u>per gallon</u>
49			<u>per liter</u>

50 (f) The following maximum fees apply to tape measures and rigid rules.

51	<u>Set-Up Fee</u>	<u>Up to \$ 40.00 per instrument</u>
52	<u>Calibration Fee</u>	<u>Up to \$10.00 calibration interval</u>

1 (g) The following maximum fees apply to liquid-in-glass and electronic
 2 thermometers.

3 <u>Set-Up Fee</u>	<u>Up to \$40.00/instrument</u>
4 <u>Calibration Fee</u>	<u>Up to \$20.00/calibration point</u>
5 <u>Resistance Thermometry Coefficient</u>	
6 <u>Calculation and Report</u>	<u>Up to \$100.00/ instrument</u>

7 (h) Any special tests or weight cleaning shall be billed at the rate of up to seventy
 8 dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum
 9 charge of thirty-five dollars (\$35.00).

10 (i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

11 (j) If travel is required in connection with the performance of any of these
 12 services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

13 (k) The Department may refuse to accept for testing any weight or measure the
 14 Department deems unsuited for its intended use.

15 (l) The fee for tests performed on weights or measures that will be used
 16 primarily outside of the State of North Carolina shall be twice the amounts set forth in
 17 this section."

18
 19 Requested by: Representatives Hunter, Warren

20 **INCREASE CAP FOR CAMA PERMIT FEES**

21 **SECTION 42.3.(a)** G.S. 113A-119.1(a) reads as rewritten:

22 "(a) The Commission shall have the power to establish a graduated fee schedule
 23 for the processing of applications for permits, renewals of permits, modifications of
 24 permits, or transfers of permits issued pursuant to this Article. In determining the fee
 25 schedule, the Commission shall consider the administrative and personnel costs incurred
 26 by the Department for processing the applications, related compliance activities, and the
 27 complexity of the development sought to be undertaken for which a permit is required
 28 under this Article. The fee to be charged for processing an application may not exceed
 29 ~~four hundred dollars (\$400.00).~~ eight hundred dollars (\$800.00). The total funds
 30 collected from fees authorized by the Commission pursuant to this section in any fiscal
 31 year shall not exceed thirty-three and one-third percent (33 1/3%) of the total personnel
 32 and administrative costs incurred by the Department for permit processing and
 33 compliance programs within the Division of Coastal ~~Area~~ Management."

34 **SECTION 42.3.(b)** The Coastal Resources Commission may adopt
 35 temporary rules to implement this section.
 36

37 **PART XLIII. JUSTICE AND PUBLIC SAFETY FEES**

38
 39 Requested by: Representatives Haire, Kiser

40 **GENERAL COURT OF JUSTICE FEE INCREASES**

41 **SECTION 43.1.(a)** G.S. 7A-304(a)(4) reads as rewritten:

42 "(a) In every criminal case in the superior or district court, wherein the defendant
 43 is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
 44 against the prosecuting witness, the following costs shall be assessed and collected,
 45 except that when the judgment imposes an active prison sentence, costs shall be
 46 assessed and collected only when the judgment specifically so provides, and that no
 47 costs may be assessed when a case is dismissed.

48 ...
 49 (4) For support of the General Court of Justice, the sum of ~~seventy-six~~
 50 ~~dollars (\$76.00)~~ eighty-five dollars and fifty cents (\$85.50) in the
 51 district court, including cases before a magistrate, and the sum of
 52 ~~eighty-three dollars (\$83.00)~~ ninety-two dollars and fifty cents
 53 (\$92.50) in the superior court, to be remitted to the State Treasurer. For

1 a person convicted of a felony in superior court who has made a first
2 appearance in district court, both the district court and superior court
3 fees shall be assessed. The State Treasurer shall remit the sum of one
4 dollar and five cents (\$1.05) of each fee collected under this
5 subdivision to the North Carolina State Bar for the provision of
6 services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of
7 each fee collected under this subdivision to the North Carolina State
8 Bar for the provision of services described in G.S. 7A-474.19."

9 **SECTION 43.1.(b)** G.S. 7A-305(a)(2) reads as rewritten:

10 "(a) In every civil action in the superior or district court, except for actions
11 brought under Chapter 50B of the General Statutes, the following costs shall be
12 assessed:

13 ...
14 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
15 ~~dollars (\$69.00)~~ seventy-nine dollars (\$79.00) in the superior court,
16 and the sum of ~~fifty-four dollars (\$54.00)~~ sixty-four dollars (\$64.00) in
17 the district court except that if the case is assigned to a magistrate the
18 sum shall be ~~forty-three dollars (\$43.00)~~ fifty-three dollars (\$53.00).
19 Sums collected under this subdivision shall be remitted to the State
20 Treasurer. The State Treasurer shall remit the sum of one dollar and
21 five cents (\$1.05) of each fee collected under this subdivision to the
22 North Carolina State Bar for the provision of services described in
23 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under
24 this subdivision to the North Carolina State Bar for the provision of
25 services described in G.S. 7A-474.19."

26 **SECTION 43.1.(c)** G.S. 7A-306(a)(2) reads as rewritten:

27 "(a) In every special proceeding in the superior court, the following costs shall be
28 assessed:

29 ...
30 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
31 ~~(\$30.00)~~ forty dollars (\$40.00). In addition, in proceedings involving
32 land, except boundary disputes, if the fair market value of the land
33 involved is over one hundred dollars (\$100.00), there shall be an
34 additional sum of thirty cents (30¢) per one hundred dollars (\$100.00)
35 of value, or major fraction thereof, not to exceed a maximum
36 additional sum of two hundred dollars (\$200.00). Fair market value is
37 determined by the sale price if there is a sale, the appraiser's valuation
38 if there is no sale, or the appraised value from the property tax records
39 if there is neither a sale nor an appraiser's valuation. Sums collected
40 under this subdivision shall be remitted to the State Treasurer. The
41 State Treasurer shall remit the sum of one dollar and five cents (\$1.05)
42 of each ~~thirty dollar (\$30.00)~~ forty-dollar (\$40.00) General Court of
43 Justice fee collected under this subdivision to the North Carolina State
44 Bar for the provision of services described in G.S. 7A-474.4."

45 **SECTION 43.1.(d)** G.S. 7A-307(a)(2) and (2a) read as rewritten:

46 "(a) In the administration of the estates of decedents, minors, incompetents, of
47 missing persons, and of trusts under wills and under powers of attorney, in trust
48 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
49 the following costs shall be assessed:

50 ...
51 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
52 ~~(\$30.00)~~ forty dollars (\$40.00), plus an additional forty cents (40¢)
53 per one hundred dollars (\$100.00), or major fraction thereof, of the

1 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~. six
2 thousand dollars (\$6,000). Gross estate shall include the fair market
3 value of all personalty when received, and all proceeds from the sale of
4 realty coming into the hands of the fiduciary, but shall not include the
5 value of realty. In collections of personal property by affidavit, the fee
6 based on the gross estate shall be computed from the information in
7 the final affidavit of collection made pursuant to G.S. 28A-25-3 and
8 shall be paid when that affidavit is filed. In all other cases, this fee
9 shall be computed from the information reported in the inventory and
10 shall be paid when the inventory is filed with the clerk. If additional
11 gross estate, including income, comes into the hands of the fiduciary
12 after the filing of the inventory, the fee for such additional value shall
13 be assessed and paid upon the filing of any account or report
14 disclosing such additional value. For each filing the minimum fee shall
15 be fifteen dollars (\$15.00). Sums collected under this subdivision shall
16 be remitted to the State Treasurer. The State Treasurer shall remit the
17 sum of one dollar and five cents (\$1.05) of each ~~thirty dollar (\$30.00)~~
18 forty-dollar (\$40.00) General Court of Justice fee collected under this
19 subdivision to the North Carolina State Bar for the provision of
20 services described in G.S. 7A-474.4.

21 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
22 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
23 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
24 thousand dollars (\$6,000), shall not be assessed on personalty received
25 by a trust under a will when the estate of the decedent was
26 administered under Chapters 28 or 28A of the General Statutes.
27 Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing
28 of each annual and final account."

29 **SECTION 43.1.(e)** G.S. 15A-145(e) reads as rewritten:

30 "(e) A person who files a petition for expunction of a criminal record under this
31 section must pay the clerk of superior court a fee of ~~sixty five dollars (\$65.00)~~ one
32 hundred twenty-five dollars (\$125.00) at the time the petition is filed. Fees collected
33 under this subsection shall be deposited in the General Fund. This subsection does not
34 apply to petitions filed by an indigent."

35 **SECTION 43.1.(f)** G.S. 15A-1343(b1)(3c) reads as rewritten:

36 "(b1) Special Conditions. – In addition to the regular conditions of probation
37 specified in subsection (b), the court may, as a condition of probation, require that
38 during the probation the defendant comply with one or more of the following special
39 conditions:

40 ...
41 (3c) Remain at his or her residence unless the court or the probation officer
42 authorizes the offender to leave for the purpose of employment,
43 counseling, a course of study, or vocational training. The offender
44 shall be required to wear a device which permits the supervising
45 agency to monitor the offender's compliance with the condition
46 electronically. ~~electronically~~ and to pay a fee for the device as specified
47 in subsection (c2) of this section."

48 **SECTION 43.1.(g)** G.S. 20-135.2A(e) reads as rewritten:

49 "(e) Any driver or passenger who fails to wear a seat belt as required by this
50 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
51 (\$25.00) plus court costs in the sum of ~~fifty dollars (\$50.00)~~. seventy-five dollars
52 (\$75.00). Court costs assessed under this section are for the support of the General

1 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction
2 under this section has no other consequence."
3

4 Requested by: Representative Kiser

5 **COURT FEE INCREASES TO BENEFIT JUDICIAL BRANCH**

6 **SECTION 43.1A.** Chapter 7A of the General Statutes is amended by adding
7 a new section to read:

8 **"§ 7A-321. Selected court fee increases to benefit Judicial Branch.**

9 Any increased revenue on account of fee increases enacted after January 1, 2007, to
10 G.S. 7A-304(a)(4) and (6), 7A-305(a)(2), 7A-307(a)(2) and (3), and 7A-308(a)(1) to
11 (20) shall be used to support the General Court of Justice and the Judicial Branch."
12

13 Requested by: Representatives Haire, Kiser

14 **DEVICE FEE FOR HOUSE ARREST WITH ELECTRONIC MONITORING**

15 **SECTION 43.2.** G.S. 15A-1343 is amended by adding a new section to
16 read:

17 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
18 electronic monitoring under subsection (b1) of this section shall pay a fee of ninety
19 dollars (\$90.00) for the electronic monitoring device. The court may exempt a person
20 from paying the fee only for good cause and upon motion of the person placed on house
21 arrest with electronic monitoring. The court may require that the fee be paid in advance
22 or in a lump sum or sums, and a probation officer may require payment by those
23 methods if the officer is authorized by subsection (g) of this section to determine the
24 payment schedule. The fee must be paid to the clerk of court for the county in which the
25 judgment was entered or the deferred prosecution agreement was filed. Fees collected
26 under this subsection shall be transmitted to the State for deposit into the State's General
27 Fund."
28

29 Requested by: Representatives Haire, Kiser

30 **INCREASE BUTNER TAXES**

31 **SECTION 43.3.(a)** Section 1 of Chapter 830 of the 1983 Session Laws
32 reads as rewritten:

33 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
34 District shall include: (i) any property formerly a part of the original Camp Butner
35 reservation, including both those areas currently owned and occupied by the State and
36 its agencies and those which may have been leased or otherwise disposed of by the
37 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
38 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
39 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
40 roads and the boundaries of said reservation and said sanitary district.

41 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
42 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
43 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
44 of ~~twenty cents (20¢)~~ twenty-five cents (25¢) per one hundred dollars (\$100.00)
45 valuation of all real and personal property in the portions of said district in their
46 respective counties from year to year which tax shall be collected as county taxes are
47 collected and shall remit the same to the State Treasurer for deposit in the General
48 Fund."
49

50 **SECTION 43.3.(b)** This section is effective for taxes imposed for taxable
51 years beginning on or after July 1, 2005.

52 Requested by: Representatives Haire, Kiser

53 **FEE FOR POLICE INFORMATION NETWORK**

1 **SECTION 43.4.(a)** G.S. 114-10.1 reads as rewritten:

2 "**§ 114-10.1. Police Information Network.**

3 (a) The Division of Criminal Statistics is authorized to establish, devise, maintain
4 and operate, under the control and supervision of the Attorney General, a system for
5 receiving and disseminating to participating agencies information collected, maintained
6 and correlated under authority of G.S. 114-10 of this Article. The system shall be
7 known as the Police Information Network.

8 (b) The Attorney General is authorized to cooperate with the Division of Motor
9 Vehicles, Department of Administration, Department of Correction and other State,
10 local and federal agencies and organizations in carrying out the purpose and intent of
11 this section, and to utilize, in cooperation with other State agencies and to the extent as
12 may be practical, computers and related equipment as may be operated by other State
13 agencies.

14 (c) The Attorney General, after consultation with participating agencies, shall
15 adopt rules and regulations governing the organization and administration of the Police
16 Information Network, including rules and regulations governing the types of
17 information relating to the administration of criminal justice to be entered into the
18 system, and who shall have access to such information. The rules and regulations
19 governing access to the Police Information Network shall not prohibit an attorney who
20 has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining
21 information relevant to that criminal proceeding. The rules and regulations governing
22 access to the Police Information Network shall not prohibit an attorney who represents a
23 person in adjudicatory or dispositional proceedings for an infraction from obtaining the
24 person's driving record or criminal history.

25 (d) The Attorney General may impose an initial set up fee of two thousand six
26 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
27 Network. This one-time fee shall be used to offset the cost of the router and data circuit
28 needed to access the Network.

29 The Attorney General may also impose monthly fees on participating agencies. The
30 monthly fees collected under this subsection shall be used to offset the cost of operating
31 and maintaining the Police Information Network

32 (1) The Attorney General may impose a monthly circuit fee on agencies
33 that access the Police Information Network through a circuit
34 maintained and operated by the Department of Justice. The amount of
35 the monthly fee is three hundred dollars (\$300.00) plus an additional
36 fee amount for each device linked to the Network. The additional fee
37 amount varies depending upon the type of device. For every desktop
38 device after the first seven desktop devices, the additional monthly fee
39 is twenty-five dollars (\$25.00) per device. For a mobile device, the
40 additional monthly fee is six dollars (\$6.00) per device.

41 (2) The Attorney General may impose a monthly device fee on agencies
42 that access the Police Information Network through some other
43 approved means. The amount of the monthly device fee varies
44 depending upon the type of device. For a desktop device, the monthly
45 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the
46 fee is six dollars (\$6.00) per device."

47 **SECTION 43.4.(b)** G.S. 114-10.1(d), as enacted by this section, reads as
48 rewritten:

49 "(d) The Attorney General may impose an initial set up fee of two thousand six
50 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
51 Network. This one-time fee shall be used to offset the cost of the router and data circuit
52 needed to access the Network.

1 The Attorney General may also impose monthly fees on participating agencies. The
 2 monthly fees collected under this subsection shall be used to offset the cost of operating
 3 and maintaining the Police Information Network

4 (1) The Attorney General may impose a monthly circuit fee on agencies
 5 that access the Police Information Network through a circuit
 6 maintained and operated by the Department of Justice. The amount of
 7 the monthly fee is three hundred dollars (\$300.00) plus an additional
 8 fee amount for each device linked to the Network. The additional fee
 9 amount varies depending upon the type of device. For a desktop device
 10 after the first seven desktop devices, the additional monthly fee is
 11 twenty-five dollars (\$25.00) per device. For a mobile device, the
 12 additional monthly fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00)
 13 per device.

14 (2) The Attorney General may impose a monthly device fee on agencies
 15 that access the Police Information Network through some other
 16 approved means. The amount of the monthly device fee varies
 17 depending upon the type of device. For a desktop device, the monthly
 18 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the
 19 fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device."

20 **SECTION 43.4.(c)** Subsection (b) of this section becomes effective January
 21 1, 2006. The remainder of this section is effective when it becomes law.

22
 23 **PART XLIV. DEPARTMENT OF TRANSPORTATION FEE CHANGES**

24
 25 Requested by: Representatives Coates, Cole

26 **DOT FEE INCREASES**

27 **SECTION 44.1.(a)** G.S. 20-7 reads as rewritten:

28 "**§ 20-7. Issuance and renewal of drivers licenses.**

29 ...

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

Class of Regular License	Fee For Each Year
Class A	\$ 4.30 <u>\$4.00</u>
Class B	4.30 <u>4.00</u>
Class C	3.05 <u>4.00</u>

32
 33 The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for
 34 each year of the period for which the endorsement is issued. The appropriate fee shall be
 35 paid before a person receives a regular drivers license or an endorsement.

36 (i1) Restoration Fee. – Any person whose drivers license has been revoked
 37 pursuant to the provisions of this Chapter, other than G.S. 20-17(2), shall pay a
 38 restoration fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00). A person whose
 39 drivers license has been revoked under G.S. 20-17(2) shall pay a restoration fee of ~~fifty~~
 40 ~~dollars (\$50.00)~~ seventy-five dollars (\$75.00) until the end of the fiscal year in which
 41 the cumulative total amount of fees deposited under this subsection in the General Fund
 42 exceeds ten million dollars (\$10,000,000), and shall pay a restoration fee of ~~twenty five~~
 43 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) thereafter. The fee shall be paid to the Division
 44 prior to the issuance to such person of a new drivers license or the restoration of the
 45 drivers license. The restoration fee shall be paid to the Division in addition to any and
 46 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.
 49
 50
 51
 52
 53

1 The ~~twenty five dollar (\$25.00) fee, and the first twenty five dollars (\$25.00) of the~~
2 ~~fifty dollar (\$50.00) fee, fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of~~
3 ~~the seventy-five-dollar (\$75.00) fee, shall be deposited in the Highway Fund. The~~
4 ~~remaining twenty-five dollars (\$25.00) of the fifty dollar (\$50.00) fee the~~
5 ~~seventy-five-dollar (\$75.00) fee shall be deposited in the General Fund of the State. The~~
6 Office of State Budget and Management shall certify to the Department of
7 Transportation and the General Assembly when the cumulative total amount of fees
8 deposited in the General Fund under this subsection exceeds ten million dollars
9 (\$10,000,000), and shall annually report to the General Assembly the amount of fees
10 deposited in the General Fund under this subsection.

11 It is the intent of the General Assembly to annually appropriate the funds deposited
12 in the General Fund under this subsection to the Board of Governors of The University
13 of North Carolina to be used for the Center for Alcohol Studies Endowment at The
14 University of North Carolina at Chapel Hill, but not to exceed this cumulative total of
15 ten million dollars (\$10,000,000).

16 ...

17 (i) Learner's Permit. – A person who is at least 18 years old may obtain a
18 learner's permit. A learner's permit authorizes the permit holder to drive a specified type
19 or class of motor vehicle while in possession of the permit. A learner's permit is valid
20 for a period of 18 months after it is issued. The fee for a learner's permit is ~~ten dollars~~
21 ~~(\$10.00).~~ fifteen dollars (\$15.00). A learner's permit may be renewed, or a second
22 learner's permit may be issued, for an additional period of 18 months. The permit holder
23 must, while operating a motor vehicle over the highways, be accompanied by a person
24 who is licensed to operate the motor vehicle being driven and is seated beside the permit
25 holder."

26 **SECTION 44.1.(b)** G.S. 20-11(j) reads as rewritten:

27 "(j) Duration and Fee. – A limited learner's permit expires on the eighteenth
28 birthday of the permit holder. A limited provisional license expires on the eighteenth
29 birthday of the license holder. A limited learner's permit or limited provisional license
30 issued under this section that expires on a weekend or State holiday shall remain valid
31 through the fifth regular State business day following the date of expiration. A full
32 provisional license expires on the date set under G.S. 20-7(f). The fee for a limited
33 learner's permit or a limited provisional license is ~~ten dollars (\$10.00).~~ fifteen dollars
34 (\$15.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

35 **SECTION 44.1.(c)** G.S. 20-14 reads as rewritten:

36 "**§ 20-14. Duplicate licenses.**

37 A person may obtain a duplicate of a license issued by the Division by paying a fee
38 of ~~ten dollars and five cents (\$10.05)~~ (\$10.00) and giving the Division satisfactory proof
39 that any of the following has occurred:

- 40 (1) The person's license has been lost or destroyed.
- 41 (2) It is necessary to change the name or address on the license.
- 42 (3) Because of age, the person is entitled to a license with a different color
43 photographic background or a different color border.
- 44 (4) The Division revoked the person's license, the revocation period has
45 expired, and the period for which the license was issued has not
46 expired."

47 **SECTION 44.1.(d)** G.S. 20-16(e) reads as rewritten:

48 "(e) The Division may conduct driver improvement clinics for the benefit of those
49 who have been convicted of one or more violations of this Chapter. Each driver
50 attending a driver improvement clinic shall pay a fee of ~~twenty five dollars~~
51 ~~(\$25.00).~~ fifty dollars (\$50.00)."

52 **SECTION 44.1.(e)** G.S. 20-26(c) reads as rewritten:

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

- (1) Limited extract copy of license record, for period up to three years ~~\$5.00~~ \$8.00
- (2) Complete extract copy of license record ~~5.00~~ 8.00
- (3) Certified true copy of complete license record ~~7.00~~ 11.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund."

SECTION 44.1.(f) G.S. 20-37.15(a1) reads as rewritten:

"(a1) The application must be accompanied by a nonrefundable application fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner's permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c)."

SECTION 44.1.(g) G.S. 20-37.16(d) reads as rewritten:

"(d) The fee for a Class A, B, or C commercial drivers license is ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) for each year of the period for which the license is issued. The fee for each endorsement is ~~one dollar and twenty five cents (\$1.25)~~ three dollars (\$3.00) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner."

SECTION 44.1.(h) G.S. 20-42(b) reads as rewritten:

"(b) The Commissioner and officers of the Division designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any document of the Division for a fee. The fee for a document, other than an accident report under G.S. 20-166.1, is ~~five dollars (\$5.00)~~ ten dollars (\$10.00). The fee for an accident report is ~~four dollars (\$4.00)~~ five dollars (\$5.00). A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. The certification fee does not apply to a document furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government."

SECTION 44.1.(i) G.S. 20-50(b) reads as rewritten:

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

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

The fee for a temporary license plate that is valid for 10 days is ~~three dollars (\$3.00)~~ five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

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

- 1 (1) It may be issued only upon proper proof that the applicant has met the
- 2 applicable financial responsibility requirements.
- 3 (2) It expires on midnight of the day set for expiration.
- 4 (3) It may be used only on the vehicle for which issued and may not be
- 5 transferred, loaned, or assigned to another.
- 6 (4) If it is lost or stolen, the person who applied for it must notify the
- 7 Division.
- 8 (5) It may not be issued by a dealer.
- 9 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to
- 10 license plates apply to temporary license plates insofar as possible."

11 **SECTION 44.1.(j)** G.S. 20-73(c) reads as rewritten:

12 "(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a
 13 certificate of title within the required time is subject to a civil penalty of ~~ten dollars~~
 14 ~~(\$10.00)~~ fifteen dollars (\$15.00) and is guilty of a Class 2 misdemeanor. A person who
 15 undertakes to apply for a certificate of title on behalf of another person and who fails to
 16 apply for a title within the required time is subject to a civil penalty of ~~ten dollars~~
 17 ~~(\$10.00)~~ fifteen dollars (\$15.00). When a person to whom a vehicle is transferred fails
 18 to obtain a title within the required time because a person who undertook to apply for
 19 the certificate of title did not do so within the required time, the Division may impose a
 20 civil penalty only on the person who undertook to apply for the title. Civil penalties
 21 collected under this subsection shall be credited to the Highway Fund."

22 **SECTION 44.1.(k)** G.S. 20-85(a) reads as rewritten:

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

- | | | |
|---------|---|-----------------------------------|
| 27 (1) | Each application for certificate of title | \$35.00 <u>\$39.00</u> |
| 28 (2) | Each application for duplicate or corrected certificate of title | |
| 29 | | 10.00 <u>14.00</u> |
| 30 (3) | Each application of reposessor for certificate of title | 10.00 <u>14.00</u> |
| 31 (4) | Each transfer of registration | 10.00 <u>15.00</u> |
| 32 (5) | Each set of replacement registration plates | 10.00 <u>15.00</u> |
| 33 (6) | Each application for duplicate registration card..... | 10.00 <u>15.00</u> |
| 34 (7) | Each application for recording supplementary lien..... | 10.00 <u>14.00</u> |
| 35 (8) | Each application for removing a lien from a certificate of title | |
| 36 | | 10.00 <u>14.00</u> |
| 37 (9) | Each application for certificate of title for a motor vehicle transferred | |
| 38 | to a manufacturer, as defined in G.S. 20-286, or a motor vehicle | |
| 39 | retailer for the purpose of resale..... | 10.00 <u>14.00</u> |
| 40 (10) | Each application for a salvage certificate of title made by an insurer | |
| 41 | | 10.00 <u>15.00</u> |
| 42 (11) | Each set of replacement Stock Car Racing Theme plates issued under | |
| 43 | G.S. 20-79.4 | 25.00 <u>25.00</u> " |

44 **SECTION 44.1.(l)** G.S. 20-85.1 reads as rewritten:

45 "**§ 20-85.1. Registration by mail; one-day title service; fees.**

46 (a) The owner of a vehicle registered in North Carolina may renew that vehicle
 47 registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be
 48 registered shall be charged for this service.

49 (b) The Commissioner and the employees of the Division designated by the
 50 Commissioner may prepare and deliver upon request a certificate of title, charging a fee
 51 of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for one-day title service, in lieu of
 52 the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by
 53 cash or by certified check.

1 (c) The fee collected under subsection (a) shall be credited to the Highway Fund.
 2 The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

3 **SECTION 44.1.(m)** G.S. 20-87 reads as rewritten:

4 **"§ 20-87. Passenger vehicle registration fees.**

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

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

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

15	Motorcycles:	1-passenger capacity	\$18.00
16		2-passenger capacity	22.00
17		3-passenger capacity	26.00
18	Automobiles:	15 or fewer passengers	\$41.00 <u>\$51.00</u>
19	Buses:	16 or more passengers	\$1.40 <u>\$2.00</u> per
20			hundred
21			pounds of
22			empty weight

23	Trucks under		
24	7,000 pounds		
25	that do not		
26	haul products		
27	for hire:	4,000 pounds.....	\$41.50
28		5,000 pounds.....	\$51.00
29		6,000 pounds.....	\$61.00.

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

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

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

41 Private passenger vehicles of not more than fifteen
 42 passengers ~~\$20.00~~ \$28.00

43 Private passenger vehicles over fifteen passengers ~~23.00~~ 31.00

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

49 (6) Private Motorcycles. – The base fee on private passenger motorcycles
 50 shall be ~~nine dollars (\$9.00);~~ fifteen dollars (\$15.00); except that when
 51 a motorcycle is equipped with an additional form of device designed to
 52 transport persons or property, the base fee shall be ~~sixteen dollars~~
 53 ~~(\$16.00).~~ twenty-two dollars (\$22.00). An additional fee of three

1 dollars (\$3.00) is imposed on each private motorcycle registered under
2 this subdivision in addition to the base fee. The revenue from the
3 additional fee, in addition to any other funds appropriated for this
4 purpose, shall be used to fund the Motorcycle Safety Instruction
5 Program created in G.S. 115D-72.

- 6 (7) Dealer License Plates. – The fee for a dealer license plate is the regular
7 fee for each of the first five plates issued to the same dealer and is
8 one-half the regular fee for each additional dealer license plate issued
9 to the same dealer. The "regular fee" is the fee set in subdivision (5) of
10 this section for a private passenger motor vehicle of not more than 15
11 passengers.
- 12 (8) Driveaway Companies. – Any person engaged in the business of
13 driving new motor vehicles from the place of manufacture to the place
14 of sale in this State for compensation shall pay a fee of one-half of the
15 amount that would otherwise be payable under this section for each set
16 of plates.
- 17 (9) House Trailers. – In lieu of other registration and license fees levied on
18 house trailers under this section or G.S. 20-88, the registration and
19 license fee on house trailers shall be ~~seven dollars (\$7.00)~~ eleven
20 dollars (\$11.00) for the license year or any portion thereof.
- 21 (10) Special Mobile Equipment. – The fee for special mobile equipment for
22 the license year or any part of the license year is two times the fee in
23 subdivision (5) for a private passenger motor vehicle of not more than
24 15 passengers.
- 25 (11) Any vehicle fee determined under this section according to the weight
26 of the vehicle shall be increased by the sum of three dollars (\$3.00) to
27 arrive at the total fee.
- 28 (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as
29 the fee for private passengers vehicles of not more than 15
30 passengers."

31 **SECTION 44.1.(n)** G.S. 20-88 reads as rewritten:

32 **"§ 20-88. Property-hauling vehicles.**

33 (a) Determination of Weight. – For the purpose of licensing, the weight of
34 self-propelled property-carrying vehicles shall be the empty weight and heaviest load to
35 be transported, as declared by the owner or operator; provided, that any determination
36 of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights
37 of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded.
38 The declared gross weight of self-propelled property-carrying vehicles operated in
39 conjunction with trailers or semitrailers shall include the empty weight of the vehicles to
40 be operated in the combination and the heaviest load to be transported by such
41 combination at any time during the registration period, except that the gross weight of a
42 trailer or semitrailer is not required to be included when the operation is to be in
43 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
44 pounds or less gross weight and the gross weight of such combination does not exceed
45 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those
46 property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of
47 500 pounds above the weight permitted under the table of weights and rates appearing
48 in subsection (b) of this section.

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

51
52 **SCHEDULE OF WEIGHTS AND RATES**
53

Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	\$0.23 <u>\$0.29</u>
4,001 to 9,000 pounds inclusive	.29 <u>.40</u>
9,001 to 13,000 pounds inclusive	.37 <u>.50</u>
13,001 to 17,000 pounds inclusive	.51 <u>.68</u>
Over 17,000 pounds	.58 <u>.77</u>

Rates Per Hundred Pound Gross Weight

	General Rate
Not over 4,000 pounds	\$0.46 <u>\$0.59</u>
4,001 to 9,000 pounds inclusive	.63 <u>.81</u>
9,001 to 13,000 pounds inclusive	.78 <u>1.00</u>
13,001 to 17,000 pounds inclusive	1.06 <u>1.36</u>
Over 17,000 pounds	1.20 <u>1.54</u>

- (1) The minimum fee for a vehicle licensed under this subsection is ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-four dollars (\$24.00) at the farmer rate and ~~twenty one dollars and fifty cents (\$21.50)~~ twenty-eight dollars (\$28.00) at the general rate.
- (2) The term "farmer" as used in this subsection means any person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale.
- (3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies and not operated in hauling for hire.
- (4) "Farm products" means any food crop, livestock, poultry, dairy products, flower bulbs, or other nursery products and other agricultural products designed to be used for food purposes, including in the term "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest products grown, produced, or processed by the farmer.
- (5) The Division shall issue necessary rules and regulations providing for the recall, transfer, exchange or cancellation of "farmer" plates, when vehicle bearing such plates shall be sold or transferred.
- (5a) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one fourth of the annual fee.
- (6) There shall be paid to the Division annually as of the first of January, the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars (\$148.00). Fees to be prorated quarterly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer.

(c) The fee for a semitrailer or trailer is ~~ten dollars (\$10.00)~~ nineteen dollars (\$19.00) for each year or part of a year. The fee is payable on or before January 1 of each year. Upon the application of the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration card for the semitrailer or trailer for a fee of seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or

1 trailer are valid until the owner transfers the semitrailer or trailer to another person or
 2 surrenders the plate and registration card to the Division. A multiyear plate may not be
 3 transferred to another vehicle.

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

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

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

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

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

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

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

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

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

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

30 **SECTION 44.1.(o)** G.S. 20-289 reads as rewritten:

31 **"§ 20-289. License fees.**

32 (a) The license fee for each fiscal year, or part thereof, shall be as follows:

33 (1) For motor vehicle dealers, distributors, distributor branches, and
 34 wholesalers, ~~fifty dollars (\$50.00)~~ seventy dollars (\$70.00) for each
 35 place of business.

36 (2) For manufacturers, ~~one hundred dollars (\$100.00)~~, one hundred fifty
 37 dollars (\$150.00) and for each factory branch in this State, ~~seventy~~
 38 ~~dollars (\$70.00)~~ one hundred dollars (\$100.00).

39 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00)~~ fifteen
 40 dollars (\$15.00).

41 (4) For factory representatives, or distributor representatives, ~~ten dollars~~
 42 ~~(\$10.00)~~ fifteen dollars (\$15.00).

43 (5) Repealed by Session Laws 1991, c. 662, s. 4.

44 (b) The fees collected under this section shall be credited to the Highway Fund.
 45 These fees are in addition to all other taxes and fees."

46 **SECTION 44.1.(p)** G.S. 20-385 reads as rewritten:

47 **"§ 20-385. Fee schedule.**

48 (a) Amounts. –

49 (1) Verification by a for-hire motor
 50 carrier of insurance for each for-hire
 51 motor vehicle operated in this State \$ 1.00

52 (2) Application by an intrastate motor carrier
 53 for a certificate of exemption ~~25.00~~ 45.00

- 1 (3) Certification by an interstate motor carrier
 2 that it is not regulated by the United
 3 States Department of Transportation 25.00 45.00
 4 (4) Application by an interstate motor carrier
 5 for an emergency permit 10.00 18.00.

6 (b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section
 7 does not apply to the verification of insurance by an interstate motor carrier regulated by
 8 the United States Department of Transportation if the Division had a reciprocal
 9 agreement on November 15, 1991, with another state by which no fee is imposed. The
 10 Division had reciprocal agreements as of that date with the following states: California,
 11 Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri,
 12 Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

13 **SECTION 44.1.(q)** Section 5(c) of S.L. 2004-189 reads as rewritten:

14 "**SECTION 5.(c)** The Division of Motor Vehicles shall retain a portion of the
 15 ~~proceeds~~ five cents (\$0.05) collected for the issuance of each of the increase in drivers
 16 license and duplicate license fees enacted in this Section to offset the actual cost of
 17 developing and maintaining the online Organ Donor Internet site established pursuant to
 18 Section 1 of this act. ~~Proceeds remaining after deduction of amounts for development~~
 19 ~~and maintenance costs~~ The remainder of the five cents (\$0.05) shall be credited to the
 20 License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the
 21 purposes authorized under G.S. 20-7.4 and G.S. 20-7.5."

22 **SECTION 44.1.(r)** G.S. 20-291 reads as rewritten:

23 "**§ 20-291. Representatives to carry license and display it on request; license to**
 24 **name employer.**

25 Every person to whom a sales representative, factory representative, or distributor
 26 representative license is issued shall carry the license when engaged in business, and
 27 shall display it upon request. The license shall state the name of the representative's
 28 employer. If the representative changes employers, the representative shall immediately
 29 apply to the Division for a license that states the name of the representative's new
 30 employer. The fee for issuing a license stating the name of a new employer is ~~one-half~~
 31 ~~the fee set in G.S. 20-289 for an annual license.~~ ten dollars (\$10.00)."

32 **SECTION 44.1.(s)** This section becomes effective October 1, 2005, and
 33 applies to fees collected on or after that date.

34 PART XLV. INDUSTRIAL COMMISSION FEES

35 Requested by: Representatives Hunter, Warren

36 INDUSTRIAL COMMISSION FEES

37 **SECTION 45.1.(a)** G.S. 97-73 reads as rewritten:

38 "**§ 97-73. Expenses of making examinations.** ~~Fees.~~

39 (a) The Industrial Commission shall ~~may~~ establish by rule a schedule of fees for
 40 examinations ~~conducted and conducted,~~ reports ~~made pursuant to G.S. 97-61.1 through~~
 41 ~~97-61.6 and 97-67 through 97-71.~~ made, documents filed, and agreements reviewed
 42 under this Article. The fees shall be collected in accordance with rules adopted by the
 43 Industrial Commission.

44 (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003."

45 **SECTION 45.1.(b)** This section is effective when it becomes law.

46 PART XLVI. MISCELLANEOUS PROVISIONS

47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 48 Michaux

49 EXECUTIVE BUDGET ACT APPLIES

1 **SECTION 46.1.** The provisions of the Executive Budget Act, Chapter 143,
2 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
3 and are incorporated in this act by reference.

4
5 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
6 Michaux

7 **COMMITTEE REPORT**

8 **SECTION 46.2.(a)** The House of Representatives Appropriations Budget
9 Committee Report on the Continuation, Expansion and Capital Budgets, dated June 15,
10 2005, which was distributed in the House of Representatives and the Senate and used to
11 explain this act, shall indicate action by the General Assembly on this act and shall
12 therefore be used to construe this act, as provided in G.S. 143-15 of the Executive
13 Budget Act, and for these purposes shall be considered a part of this act and as such
14 shall be printed as a part of the Session Laws.

15 **SECTION 46.2.(b)** The budget enacted by the General Assembly for the
16 maintenance of the various departments, institutions, and other spending agencies of the
17 State for the 2005-2007 fiscal biennium is a line-item budget, in accordance with the
18 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set
19 out in the Administrative Policies and Procedures Manual of the Office of the State
20 Controller. This budget includes the appropriations made from all sources including the
21 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
22 departmental receipts.

23 The Director of the Budget submitted the itemized budget requests to the
24 General Assembly on February 23, 2005, in the documents "North Carolina State
25 Budget 2005-2007, Summary of Recommendations" and "State of North Carolina
26 2005-2007 Recommended Continuation Budget" volumes one through six. The
27 beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for
28 the various departments, institutions, and other spending agencies of the State is
29 referenced in Tables 12 and 13 of the Summary of Recommendations document as the
30 recommended continuation budget.

31 The General Assembly adjusted the recommended continuation budget to
32 incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as
33 required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of
34 Medical Assistance, the Division of Mental Health, Developmental Disabilities, and
35 Substance Abuse Services, the Clean Water Management Trust Fund, the Department of
36 Crime Control and Public Safety, the Judicial Department, the General Assembly, the
37 Department of Revenue, the Office of State Budget and Management, the Community
38 Colleges System Office, The University of North Carolina – Board of Governors, the
39 Department of Transportation, the Reserve for Death Benefit Trust, and the Reserve for
40 Disability Income Plan. These adjustments to the recommended continuation budget are
41 set out in the House of Representatives Appropriations Committee Report on the
42 Continuation, Expansion, and Capital Budgets dated June 15, 2005. The recommended
43 continuation budget submitted by the Director of the Budget, as adjusted by the General
44 Assembly, is referred to as the adjusted continuation budget and represents the starting
45 point for further legislative revisions.

46 The General Assembly revised the adjusted continuation budget for the
47 2005-2006 fiscal year and the 2006-2007 fiscal year in accordance with the steps that
48 follow, and the line-item detail in the budget enacted by the General Assembly may be
49 derived accordingly:

- 50 (1) The adjusted continuation budget was revised in accordance with
51 reductions and additions that were set out in the House of
52 Representatives Appropriations Committee Report on the

1 Continuation, Expansion, and Capital Budgets dated June 15, 2005,
2 together with any accompanying correction sheets.

- 3 (2) Transfers of funds supporting programs were made in accordance with
4 the House of Representatives Appropriations Committee Report on the
5 Continuation, Expansion, and Capital Budgets dated June 15, 2005,
6 together with any accompanying correction sheets.

7 **SECTION 46.2.(c)** The budget enacted by the General Assembly shall also
8 be interpreted in accordance with the special provisions in this act and in accordance
9 with other appropriate legislation.

10 In the event that there is a conflict between the line-item budget certified by
11 the Director of the Budget and the budget enacted by the General Assembly, the budget
12 enacted by the General Assembly shall prevail.

13
14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
15 Michaux

16 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

17 **SECTION 46.3.** Except for statutory changes or other provisions that clearly
18 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual
19 provisions of this act apply only to funds appropriated for, and activities occurring
20 during, the 2005-2007 fiscal biennium.

21
22 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
23 Michaux

24 **EFFECT OF HEADINGS**

25 **SECTION 46.4.** The headings to the parts and sections of this act are a
26 convenience to the reader and are for reference only. The headings do not expand,
27 limit, or define the text of this act, except for effective dates referring to a Part.

28
29 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
30 Michaux

31 **SEVERABILITY CLAUSE**

32 **SECTION 46.5.** If any section or provision of this act is declared
33 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
34 whole or any part other than the part so declared to be unconstitutional or invalid.

35
36 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
37 Michaux

38 **EFFECTIVE DATE**

39 **SECTION 46.6.** Except as otherwise provided, this act becomes effective
40 July 1, 2005.